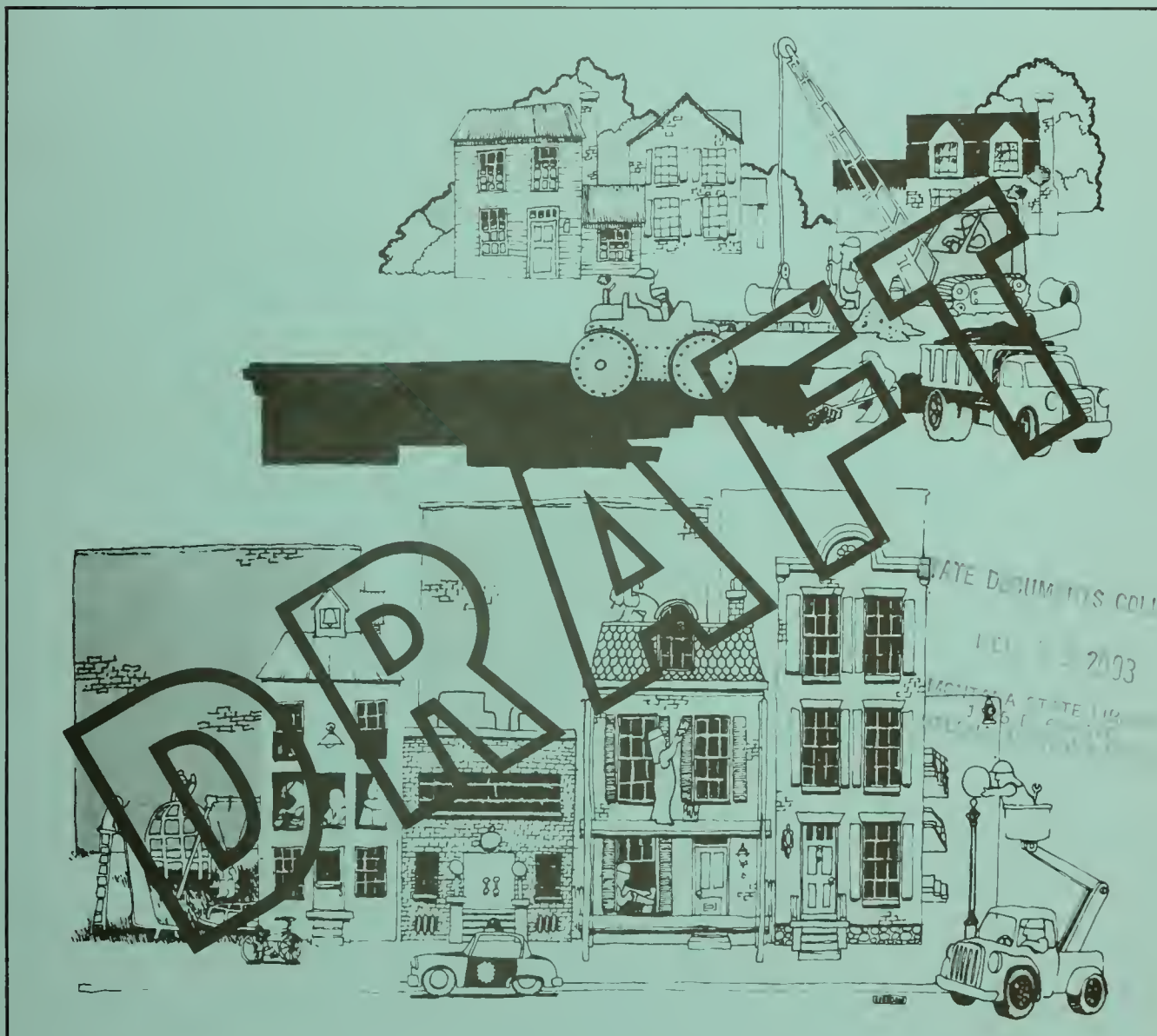


S
363.58
C18AG
1985

Montana Community Development Block Grant Program 1985 APPLICATION GUIDELINES



Montana Department of Commerce



1985

MONTANA

COMMUNITY DEVELOPMENT

BLOCK GRANT PROGRAM

DRAFT APPLICATION GUIDELINES

Montana Department of Commerce

Keith L. Colbo
Director

Newell B. Anderson
Administrator
Community Development Division

David Cole
CDBG Program Manager

Program Officers:
Bobbi Balaz
Larry Curran
Terry Dimock

Cogswell Building, Room C-211
Capitol Station
Helena, Montana 59620

Phone: (406) 444-2488

April, 1985



Digitized by the Internet Archive
in 2011 with funding from
Montana State Library

<http://www.archive.org/details/1985montanacomm1985mont>

INDEX

	Page
I. INTRODUCTION	
BACKGROUND.....	1
STATE ADMINISTRATION OF THE CDBG PROGRAM.....	1
DEVELOPMENT OF THE MONTANA CDBG PROGRAM.....	2
PAST GRANT AWARDS.....	3
II. FISCAL YEAR 1985 PROGRAM DESCRIPTION	
PROGRAM GOAL AND OBJECTIVES.....	8
PROJECT CATEGORIES.....	12
TYPES OF GRANTS AVAILABLE.....	13
DISTRIBUTION OF FUNDS.....	15
GRANT CEILINGS.....	17
III. GENERAL POLICIES FOR ALL CDBG PROJECTS.....	19
IV. GENERAL REQUIREMENTS FOR ALL CDBG PROJECTS.....	20
V. APPLICATION EVALUATION AND RANKING.....	34
RANKING PROCESS.....	35
VI. SPECIAL REQUIREMENTS AND RANKING CRITERIA FOR HOUSING AND NEIGHBORHOOD REVITALIZATION PROJECTS.....	37
SPECIAL REQUIREMENTS.....	37
RANKING CRITERIA.....	43
VII. SPECIAL REQUIREMENTS AND RANKING CRITERIA FOR PUBLIC FACILITIES PROJECTS.....	51
SPECIAL REQUIREMENTS.....	51
RANKING CRITERIA.....	55
VIII. APPLICATION DEADLINES, SPECIAL REQUIREMENTS AND RANKING CRITERIA FOR ECONOMIC DEVELOPMENT PROJECTS.....	63
APPLICATION DEADLINES.....	63
SPECIAL REQUIREMENTS.....	63
RANKING CRITERIA.....	68
OVERALL SCORE.....	74
IX. SPECIAL REQUIREMENTS AND RANKING CRITERIA FOR MULTIPURPOSE PROJECTS.....	75
SPECIAL REQUIREMENTS.....	75
RANKING CRITERIA.....	77
PROJECT FACTOR.....	77
ACTIVITY FACTOR.....	78
X. PROCEDURES FOR GRANT AWARD.....	80
ANNOUNCEMENT OF RANKING RESULTS AND GRANT AWARDS.....	80
RE-RANKING OF APPLICATIONS.....	80
APPLICATION REVIEW.....	80
APPLICANT APPEAL.....	80

XI. PROJECT START-UP PROCEDURES.....	81
AMOUNT OF GRANT AWARD.....	81
PROJECT START-UP REQUIREMENTS.....	81
GRANT CONTRACT.....	82
COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS.....	82
COMMITMENT OF NON-CDBG RESOURCES.....	83
PROJECT MONITORING.....	83
TIMELY PROJECT COMPLETION.....	83
CONTRACT AMENDMENT.....	84

APPENDIX A:

SUMMARY OF FISCAL YEAR 1984 GRANT AWARDS.....	A1 - A10
---	----------

APPENDIX B:

ACTIVITIES ELIGIBLE FOR CDBG ASSISTANCE UNDER THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED BY THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983.....	B1 - B5
---	---------

APPENDIX C:

HUD REGULATIONS FOR THE CDBG PROGRAM PUBLISHED IN THE <u>FEDERAL REGISTER</u> , September 23, 1983.....	C1 - C23
--	----------

APPENDIX D:

HUD OPERATING INSTRUCTIONS FOR THE STATE CDBG PROGRAM.....	
---	--

APPENDIX E:

HOUSEHOLD INCOME LIMITS FOR DETERMINATION OF LOW AND MODERATE INCOME STATUS.....	E1 - E6
---	---------

APPENDIX F:

1985 GUIDELINES FOR DOCUMENTING BENEFIT TO LOW AND MODERATE INCOME PERSONS.....	F1 - F21
Exhibits:	

- A: Federal Standards for Definition of
 Low and Moderate Income Status
- B: Model Population Characteristics
 Survey Form
- C: Percentage of LMI Persons for Montana
 Local Governments According to HUD
- D: Sample Size According to Number of
 Households in Project Area
- E: Calculation of CDBG Funds Used to
 Benefit LMI Households

APPENDIX G:

STATEMENT OF ASSURANCES.....	G1 - G12
------------------------------	----------

APPENDIX H:

DEPARTMENT OF COMMERCE MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM, 1985 POINT DETRACTION SURVEY FORM FOR STRUCTURAL CONDITION OF HOUSING UNITS.....	H1 - H3
---	---------

1. INTRODUCTION

BACKGROUND

The Community Development Block Grant (CDBG) Program was established by the federal Housing and Community Development Act of 1974 and is administered nationally by the U.S. Department of Housing and Urban Development (HUD). The Act combined eight existing categorical grant programs into a single block grant program which is designed to help communities meet their greatest community development needs, with primary emphasis on assisting persons of low and moderate income.

The national CDBG Program is divided into two major categories:

1. "entitlement" communities which are communities with 50,000 or larger populations. In Montana, only Billings and Great Falls are entitlement communities; they receive CDBG funds on a formula basis and are directly under HUD administration.
2. "non-entitlement" communities are communities with populations under 50,000. Allocations for the non-entitlement program are established for each state on the basis of a statutory formula. The "non-entitlement" CDBG program was commonly referred to as the "Small Cities" Program and has been an important source of funding for Montana communities for dealing with a variety of community development problems. Grants were awarded by HUD through an annual state-wide competition which used a national rating system to evaluate applications. In the seven years that HUD administered the program for Montana, 46 cities, towns and counties competed successfully for over \$23 million in grants.

In recent years, the non-entitlement funding levels for Montana have been as follows:

Fiscal Year 1982	\$ 6,109,000
Fiscal Year 1983	\$ 6,327,000
Fiscal Year 1984	\$ 6,213,000

Funding for 1985 will be approximately \$6,276,000.

STATE ADMINISTRATION OF THE CDBG PROGRAM

In 1981, Congress amended the federal Housing and Community Development Act to make the non-entitlement portion of the Community Development Block Grant program available as an optional State-administered program with the State totally responsible for the program. Prior to this time the only State role had been the technical assistance provided to Montana communities in the preparation of their grant applications and participation in HUD's evaluation and ranking of applications.

Comment received from the public at a series of block grant briefings held in September, 1981, was overwhelmingly supportive of State administration of the CDBG Program. The Montana League of Cities and Towns and the Montana Association of Counties also both endorsed state take-over of the program. As a result, Governor Ted Schwinden sought and received authorization from the November, 1981 special session of the Legislature to assume administration of the program beginning with the fiscal year 1982 funding cycle.

Extensive federal regulations accompany the program. The Montana Department of Commerce will use a small portion of the State CDBG allocation for administration of the program. The funds will be used to supplement State resources to meet federal regulatory requirements and to support related technical assistance to applicants and grantees and project monitoring activities throughout the terms of the local projects.

DEVELOPMENT OF THE MONTANA CDBG PROGRAM

Although extensive federal requirements attach to the program, the State does have some flexibility in establishing the criteria that are used to select applications for funding in the State's annual CDBG competition. In December, 1981, Gary Buchanan, former Director of the Department of Commerce, appointed a task force to advise the Department in the development of Montana's 1982 CDBG Program.

Following the 1982 CDBG competition, Gary Buchanan appointed another committee of local officials to evaluate the performance of the first year of the State CDBG program and to recommend any necessary modifications prior to the 1983 grant competition. The current application guidelines reflect the efforts of those committees and the Department of Commerce to respond to the concerns or suggestions that local officials or staff have offered during the three years the State has administered the program.

In November, 1983, President Reagan signed the Housing and Urban-Rural Recovery Act of 1983 which included major amendments to the CDBG enabling legislation. These changes, in general, reduced the State's flexibility in administering the program.

In keeping with these amendments:

1. In the event that it becomes necessary to make significant changes in the State's program guidelines during the period for which the guidelines apply, the Department will hold at least one public hearing on any such proposed change.
2. Henceforth, all interested citizens and local officials will be notified at the time of submission of the Department's annual performance report to HUD. Copies of the report will be available on request for public review and comment.

The Department of Commerce will provide public access, with reasonable notice, to any of its files pertaining to the past use of CDBG funds under the State CDBG Program at its offices in Helena, Montana.

PAST GRANT AWARDS

1982 Grant Awards

1982 was the first year that the State administered the CDBG program. Congress mandated that states which assume administration of the CDBG program honor HUD's prior funding commitments to multi-year projects. The following five communities were awarded funds from Montana's 1982 State allocation on this basis:

<u>Multi-Year Grantee</u>	<u>Amount</u>
Butte-Silver Bow	\$ 598,000
Kalispell	453,000
Missoula	495,000
Polson	425,000
Shelby	546,000
Total	<u>\$2,517,000</u>

Forty-eight communities submitted applications for the \$3,470,000 available for award to new applicants, as follows:

<u>Project Category</u>	<u>Number of Applicants</u>	<u>Amount Requested</u>
Economic Development	5	\$ 1,418,771
Housing	7	2,800,000
Public Facilities	36	9,064,207
	<u>48</u>	<u>\$13,282,978</u>

The thirteen highest ranked applicants were awarded grants as follows:

New 1982 Grantees

<u>Grantee</u>	<u>Project Category</u>	<u>Grant Amount</u>
Madison County	public facilities (solid waste)	\$ 81,073
Alberton	housing	400,000
Judith Basin County (Ceyser)	public facilities (sewer)	102,106
Sheridan County (Antelope)	public facilities (water & sewer)	190,020
Sweet Grass County	economic development	334,071
Big Horn County (Wyola)	public facilities (water)	245,236
Moore	public facilities (sewer)	105,169
Winnett	public facilities (water)	359,270

Culbertson	public facilities (water)	400,000
Powell County	public facilities (solid waste)	108,900
St. Ignatius	housing	400,000
Roundup	housing	400,000
Lewistown	public facilities (sewer)	<u>343,975</u>
	Total	\$3,469,820

1983 Grant Awards -- Jobs Bill Program

In 1983, two grant competitions were conducted. The first was established by the special allocation made to the State under the 1983 federal Jobs Bill. For this program, twenty applications were received from areas having an unemployment rate higher than the State's average. \$1,283,000 was available. Grant awards were made to six communities, as follows:

<u>Grantee</u>	<u>Project Category</u>	<u>Grant Amount</u>
Missoula (city)	housing rehabilitation	\$ 237,500
Butte-Silver Bow	public facilities	250,000
Alberton	public facilities	215,000
Plains	public facilities	244,766
Cascade County	public facilities	249,700
Anaconda-Deer Lodge	public facilities	86,034

In addition to the State's overall objectives for the regular program, two additional objectives were added to the Jobs Bill Program. These additional objectives were:

1. To target the use of Jobs Bill dollars to areas of the State experiencing above average unemployment rates. This was accomplished by restricting eligibility to apply to those counties, and incorporated areas within them, that had a higher unemployment rate than the State average.
2. To encourage immediate impact on the employment of those who had been unemployed for fifteen of the twenty-six weeks preceding the March 24 date of passage of the Jobs Bill.

1983 Grant Awards -- Regular Program

In accordance with the federal requirement that states which assume administration of the CDBG program honor prior multi-year grant commitments made by HUD, the following two communities were awarded Fiscal Year 1983 CDBG funds:

Butte-Silver Bow	\$570,000
Polson	<u>425,000</u>
Total	\$995,000

For the regular 1983 CDBG competition for Fiscal Year 1983 funds, thirty-four applications were received for the \$5,201,820 available for award to new applicants. The application types and total amounts requested were as follows:

<u>Project Category</u>	<u>Number</u>	<u>Amount Requested</u>
Comprehensive	5	\$ 2,325,000
Single Purpose:		
Economic Development	1	400,000
Housing	8	3,200,000
Public Facilities	20	5,111,083
Total	34	\$11,036,083

The 1983 State CDBG allocation included sufficient funds to offer tentative grant awards to sixteen applicants:

New 1983 Grantees

Comprehensive Projects

<u>Grantee</u>	<u>Project Categories</u>	<u>Amount</u>
Hill County	public facilities and economic development	\$ 500,000 (per year for 3 years)
Kalispell	housing rehabilitation and economic development	\$ 500,000 (per year for 3 years)
	Total	\$1,000,000

Single Purpose Projects

<u>Grantee</u>	<u>Project Category</u>	<u>Amount</u>
Anaconda	public facilities (sewer)	\$ 400,000
Cascade County (Vaughn)	public facilities (water)	362,000
Dodson	housing rehabilitation	400,000
Flaxville	public facilities (water)	21,850
Harlem	public facilities (sewer)	115,955
Joliet	public facilities (sewer)	229,090
Malta	housing rehabilitation	400,000
Miles City	housing rehabilitation	400,000
Mineral County (St. Regis)	housing rehabilitation	400,000
Rosebud County (Ingomar)	public facilities (water)	166,262
Shelby	housing rehabilitation	400,000
Teton County (Power)	public facilities (sewer)	113,580
Thompson Falls	housing rehabilitation	400,000
Three Forks	public facilities (water)	400,000
TOTAL		\$4,208,737

1984 Grant Awards

In accordance with prior multi-year multi-purpose grant commitments made in 1983 by the Department of Commerce, the following two local governments were awarded Fiscal Year 1984 CDBG funds:

<u>Grantee</u>	<u>Project Categories</u>	<u>Amount</u>
Hill County	public facilities and economic development	\$ 500,000
Kalispell	housing rehabilitation and economic development	\$ 500,000
	TOTAL	<u>\$1,000,000</u>

Forty applications were received for the \$4,988,740 remaining funds available for award to new applicants through the 1984 CDBG competition. The application types and total amounts requested were as follows:

<u>Type of Application</u>	<u>Number of Applications</u>	<u>Amount Requested</u>
Single Purpose:		
Economic Development	2	\$ 508,937
Housing	12	5,669,906
Public Facilities	24	9,045,689
Multipurpose	2	<u>1,000,000</u>
TOTAL	40	\$16,224,532

The 1984 State CDBG allocation provided sufficient funds to offer tentative new grant awards to thirteen applicants:

New 1984 Grantees

Single Purpose Projects

<u>Grantee</u>	<u>Project Category</u>	<u>Grant Amount</u>	<u>Total Project</u>
Belgrade	economic development	\$ 209,500	\$ 559,500
Bozeman	housing and neighborhood revitalization	500,000	665,100
Flathead County (Martin City)	public facilities (water)	500,000	871,170
Lake County (Charlo)	public facilities (water)	195,015	229,420
Lewis and Clark Co.	economic development	299,437	7,043,437
Lodge Grass	housing and neighborhood revitalization	500,000	525,000
Melstone	public facilities (water)	500,000	575,000

Missoula	housing and neighborhood revitalization	500,000	1,924,000
Neihart	public facilities (water)	136,789	620,250
Saco	public facilities (water)	500,000	652,300
White Sulphur Springs	public facilities (water)	500,000	1,143,000
Winnett	public facilities (water)	58,062	58,062
Total		\$4,398,803	\$14,866,239

Multi-year, Multipurpose Projects

<u>Grantee</u>	<u>Project Categories</u>	<u>Grant Amount</u>	<u>Total Project</u>
Butte-Silver Bow	housing rehabilitation and public facilities	\$500,000	\$664,000

Summary of 1984 Grants

<u>Project Category</u>	<u>Number</u>	<u>Amount</u>
economic development	2	\$ 508,937
housing and neighborhood revitalization	3	1,500,000
public facilities	7	2,389,866
multipurpose	3	1,500,000
Total	15	\$5,898,803

A summary of each of the projects awarded funds under the 1984 Montana CDBG Program is contained in Appendix A.

If any of the tentative 1984 grantees is unable to fulfill the conditions required to secure a final commitment of funds, the tentative grant commitment will be withdrawn. In the event that excess funds above the last ranked grant request are available, they may be re-allocated at the discretion of the Director of the Department of Commerce, consistent with these guidelines, so as to best achieve the goal and objectives of the State CDBG Program.

II. FISCAL YEAR 1985 PROGRAM DESCRIPTION

PROGRAM GOAL AND OBJECTIVES

Goal

Consistent with Congressional intent as expressed in the federal Housing and Community Development Act, the goal of the Montana Community Development Block Grant Program is to develop viable communities by providing decent housing, healthful and safe living environments, and economic opportunities, principally for persons of low and moderate income.

National Objectives

Within the statutory requirements set out by the federal Housing and Community Development Act and HUD regulations, the State has some flexibility to design its own program objectives and procedures for program administration, and to develop criteria for selection of grant recipients. The law requires that in designing its program for allocating CDBG funds the State assure that:

...the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low and moderate income families or aid in the prevention or elimination of slums or blight, and the projected use of funds may also include activities which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

The 1983 amendments to the federal law also state that 51% of a State's CDBG funds, taken as a whole, must be used for activities that principally benefit low and moderate income persons.

The Montana CDBG Program has responded to these mandates by requiring that each applicant document that 51% of the non-administrative funds provided for a local CDBG project must be used for activities that are clearly designed to meet the identified needs of low and moderate income persons.

Comment:

The U.S. Department of Housing and Urban Development is currently preparing regulations for the State-administered CDBG Program. Preliminary drafts of the regulations indicate that HUD will be imposing restrictions on eligible activities which are identical to those incorporated in the proposed HUD regulations for Entitlement communities (over

50,000 population). Unlike past practice under the 1982 and 1983 Montana CDBG Programs in which applicants justified projects, as a whole, as responding to one of the three national objectives, applicants will now have to cite the national objective being met for each activity proposed within the overall project (other than administration). In the 1984 program, all applicants justified their projects on the basis of benefit to low and moderate income. To provide maximum flexibility for grant recipients in anticipation of more restrictive HUD regulations, fiscal year 1984 grantees and applicants for 1985 CDBG funds may cite any one of the three national objectives to justify the activities proposed in their application. (This change will not affect the existing requirement that 51% of all non-administrative funds be used for activities that will benefit low and moderate income.)

Each activity proposed by a local CDBG project (other than project administration) must address one of the three national objectives cited above. Therefore, any activity which does not principally benefit low and moderate income persons must qualify as an activity which meets one of the following national objectives:

- a. preventing or eliminating slums and blight, or
- b. meeting community development needs having a particular urgency.

The federal standards for qualifying project activities under these national objectives are discussed in Section 6, Eligible Activities on page 24.

State Objectives

The 1983 amendments require that the Department of Commerce prepare a report to HUD which assesses the relationship of each grant recipient's use of CDBG funds to the State's community development objectives. In order for the Department to fulfill this requirement each CDBG applicant must identify the State objective(s) which its proposed project responds to. The following section describes the State's objectives for the Montana CDBG Program.

General

1. Provide funding to communities whose needs are greater than those of other communities and whose project proposals most effectively address local needs and the goal and objectives of the Montana CDBG Program.
2. To the extent possible within the framework of federal and State statutes and regulations, create CDBG application and administrative requirements which provide flexibility for communities to design projects which are responsive to locally identified community development needs and priorities and the needs of low and moderate income persons.

3. Provide balanced and equitable program requirements that assure equal opportunity for CDBG assistance, regardless of project category or status of applicant.
4. Encourage coordinated long-term strategies for community development activities which are consistent with local planning efforts and provide incentives for further public and private investment.
5. Ensure that CDBG projects result in sound investment in Montana's communities and are administered efficiently, effectively and consistently with appropriate State and federal policies.
6. Encourage meaningful citizen participation, including low and moderate income persons, in the selection, design and implementation of local community development projects.
7. Encourage the recognition of environmental constraints on community development in order to minimize or mitigate potentially adverse impacts upon the human and natural environment.
8. Encourage the cost-effective conservation of energy and the use of renewable energy sources in community development activities.

Coordination of Resources

9. In order to increase the potential impact of limited CDBG funds, encourage the commitment and coordination of other available public or private resources for community development projects.
10. Encourage coordination and cooperation between the Montana CDBG Program and other local, State and federal agencies for the purposes of joint funding, technical assistance, and project management and monitoring.
11. Encourage interlocal cooperation and innovative design in the delivery of local public services.

Local Management Capability

12. Increase the capacity of local governments to address community development needs by supporting effective local planning and management initiatives, including capital improvements programming.

Economic Development

13. Encourage viable economic development projects that promote investment of private capital, retention of local economic enterprises, expansion of local tax bases, and provision of long-term jobs with growth potential, principally for low and moderate income, unemployed or underemployed Montanans.
14. Increase retail sales, job creation and property values in stagnating or declining commercial districts by encouraging cooperative public and private revitalization efforts.

15. Encourage effective linkages between and utilization of job training programs and private sector employment.

Housing and Neighborhood Revitalization

16. Provide decent, safe, sanitary and energy efficient housing for persons of low and moderate income by conserving and improving the condition of appropriate existing housing stock.
17. Encourage the provision of housing assistance to low and moderate income households which may be especially needy such as those with lower incomes, female heads of family, or minority, elderly or disabled members.
18. Support the revitalization of deteriorated or declining residential neighborhoods through comprehensive neighborhood improvement efforts which address housing and public facility needs, while avoiding displacement of current residents.
19. Eliminate blighting conditions in residential areas through demolition, code enforcement and related activities.
20. Encourage private sector investment in housing rehabilitation and new housing construction for low and moderate income households.
21. Encourage the creation of new housing units including adaptive reuse of suitable structures.
22. Encourage the acquisition and preparation of sites for construction of new housing units for persons of low and moderate income.
23. Increase the number of new housing units through utilization of innovative technologies, project design concepts and financial packaging.
24. Increase fair housing opportunity for low and moderate income persons by encouraging efforts by local governments to prevent discriminatory or restrictive housing practices.

Public Facilities

25. Assist communities in providing appropriate, complete and long-term solutions to serious deficiencies in public facilities which are detrimental to the public health and safety and detract from further community development, or which are necessary to meet other essential community needs.
26. Encourage development of projects for which continued long-term maintenance and operation of the facility after construction can be ensured.
27. Promote effective solutions to public facility problems, by encouraging, where practical, innovative system designs and interlocal cooperation.

28. Support the development of public facilities that promote sound community development growth patterns.

PROJECT CATEGORIES

There are three basic areas of emphasis under Montana's CDBG Program. Projects must address at least one of the following categories:

1. economic development;
2. housing and neighborhood revitalization; or
3. public facilities.

Economic Development Projects

Economic development projects should be designed to create new employment opportunities or maintain existing employment, principally for low and moderate income persons. Projects should increase economic activity in the community and result in an improvement of the community's overall economic situation.

Typical eligible activities that fall within the economic development category include: land acquisition; public facilities and other improvements in support of economic development, such as water and sewer lines, and access roads; loans for acquisition, construction, rehabilitation, or installation of commercial and industrial facilities or equipment; and employee training.

Housing and Neighborhood Revitalization Projects

Housing and neighborhood revitalization projects should be designed to increase the supply or quality of affordable dwellings suited to the occupancy of low and moderate income individuals and families, including improvements to the existing housing stock as well as activities designed to facilitate construction of new housing units. Projects should also attempt to eliminate blighting influences within the project area in order to encourage overall revitalization of the neighborhood selected for housing activities.

Some of the activities generally associated with housing and neighborhood revitalization projects include: real property acquisition, code enforcement, rehabilitation, historic preservation, and energy conservation; clearance, demolition, and removal or relocation of buildings; rehabilitation of publicly-owned or acquired property for resale in order to provide assisted housing; rehabilitation financing; the removal of architectural barriers; and housing assistance activities for the physically or mentally disabled.

Public Facilities Projects

Public facilities projects should be designed to improve public buildings or infrastructure principally serving low and moderate income persons within a neighborhood or a community.

Some of the eligible activities under this category include water and sewer facilities, solid waste disposal facilities, street improvements, property acquisition for public facilities, nonresidential senior or handicapped centers, and neighborhood facilities providing community services to residents of a project area. Activities may also include direct assistance to low and moderate income families such as payment of assessments or hook-up charges for public improvements.

TYPES OF GRANTS AVAILABLE

The applicant must clearly state which of the four types of grants it is submitting:

1. Single Purpose - Economic Development;
2. Single Purpose - Housing and Neighborhood Revitalization;
3. Single Purpose - Public Facilities; or
4. Multipurpose.

Single Purpose Grants

A project submitted under the single purpose category may consist of one or more activities designed to substantially resolve a community development need. The principal activities must clearly be designed to address needs appropriate to the category applied for and must represent at least eighty percent of the non-administrative project funds requested; other proposed activities must be clearly complementary to and in support of the principal activities and enhance the overall impact of the project in resolving the identified problem.

For example, sidewalk and street improvements included in a housing and neighborhood revitalization project which addresses housing rehabilitation, demolition, acquisition, and/or relocation needs could be considered to be in support of the neighborhood revitalization activity and related to the project objectives.

In order to improve cost-effectiveness for project administration, a county may apply for a grant for a project which would address the same category of community need in two or more separate unincorporated communities as long as the grant request is under the established ceiling. For example, a county can apply for a project which would provide public facilities for two unincorporated communities or a project which would conduct housing rehabilitation activities in two unincorporated communities. If considering such a project, the applicant county would want to be sure that the involved communities have an equally high level of need and that the proposed response is equally appropriate and would achieve comparable impact on the needs of each of the communities; if not, the entire application could be less competitive.

Multipurpose Grants

Some communities may wish to solve interrelated problems in their jurisdictions. When a community need is clearly broader than one single project category can respond to, a multipurpose CDBG project may be more appropriate. For example, the goal of revitalizing a deteriorated residential neighborhood often requires a coordinated effort to rehabilitate substandard housing along with improvements to public facilities such as sidewalks, streets, storm drainage or lighting.

Multipurpose CDBG projects must:

- address community development needs in at least two of the following categories:
 - (a) economic development;
 - (b) housing and neighborhood revitalization; or
 - (c) public facilities;
- demonstrate clearly to have been the result of a comprehensive assessment of community development needs;
- address a reasonable portion of the identified needs of low and moderate income persons within an appropriate, defined concentrated target area or areas;
- involve activities that are clearly interdependent and complementary and which must of necessity be carried out in a coordinated manner in order to provide the most appropriate solution and a recognizable and substantial impact upon the identified needs; and
- have a substantial, measurable impact within a reasonable period of time.

A funding commitment of one or two years may be requested for multipurpose grants. Project activities within a multi-year multipurpose project should be designed as independent components capable of achieving a significant impact upon identified community development needs during each year of the project.

DISTRIBUTION OF 1985 FUNDS

Comment

Under the 1982 and 1983 State CDBG guidelines, the annual allocation available for distribution was split into two allocations: 65% for single purpose projects and 35% for comprehensive projects, without regard to the funds requested in each category.

Under that system, "single purpose" applications (economic development, housing, or public facilities) were ranked under separate but parallel criteria for each of the three project categories and competed for the same funds. "Comprehensive" applications (projects including activities in at least two of these three categories) competed only against other comprehensives.

In 1984, the Department of Commerce established an allocation system for CDBG funds designed to more accurately reflect the need for different types of projects. As in 1984, each of the four project types will receive an initial allocation of fiscal year 1985 funds.

For public facilities, housing, and multipurpose applications, the allocation will be based on the amount of funds requested for each category by the applications submitted and accepted for the regular grant competition in September, 1985.

For public facilities and housing, in general, basic needs can be identified and planned for in advance. Experience with economic development has shown that communities become involved in job-generating activities in two types of situations: a. assistance to existing businesses to foster expansion and/or prevent closure, and b. provision of necessary public services and/or loans in conjunction with new investment in the community by a business not previously located there. In contrast to housing and public facility projects, these opportunities generally are not identifiable and planned for in advance, but require a timely response by the community when such a situation develops.

For 1985, 10% of the total available for new grants has been reserved for economic development projects to allow economic development funds to be available two times over a 12 month period.

The Department of Commerce believes that this system for allocating funds among project categories:

- establishes funding allocations among grant categories that are responsive to local needs and demand;

- allows the CDBG program to be more responsive to the unique constraints faced by local economic development projects;
- assures an equitable application competition by ranking applications only against other applications in the same category; and
- speeds and simplifies the application ranking process.

Funds Available for the 1985 State CDBG Program

The amounts available for Montana's CDBG Program for federal fiscal year 1985 are approximately as follows:

*Total Fiscal Year 1985 State CDBG allocation	\$6,276,000
Less CDBG funds for State program administration and technical assistance to applicants and to grantees throughout the terms of local projects (3% of total allocation)	<u>224,260</u>
Subtotal available for award to local governments	\$6,051,740

Allocation of Funds

Amount available for award to local governments	\$6,051,740
less 10% allocation for economic development projects (see page 63)	\$ 605,174
less prior commitments to multi-year grants:	
Butte-Silver Bow	\$ 500,000
Hill County	500,000
Kalispell	<u>500,000</u>
	\$1,500,000
Total available for allocation to housing and neighborhood revitalization, public facilities, and multipurpose projects	\$3,946,566

Allocations for the housing and neighborhood revitalization, public facilities, and multipurpose categories will be established on the basis of the total dollars requested for each type of grant as a percentage of the total amount requested by all applicants in these three areas. Allocations will be calculated using applications accepted and determined to be eligible for the 1985 regular grant competition. Those applications will compete only against other applications in the same project category for the total amount of funds allocated to that category.

The distribution of funds in any category may be subject to a shift up or down, per category, of up to 10 percent of the amount available for award to local governments at the discretion of the Director of Department of Commerce, under the following circumstances:

- if the funds remaining in a single category are insufficient to achieve adequate impact for all of the next highest ranked projects or would result in unjustifiably high administrative costs relative to project impact; or
- where judgments on the overall quality of proposed projects and their consistency with the goal and objectives of the State CDBG Program would justify redistribution of funds.

Unallocated funds from the current fiscal year or unexpended or uncommitted funds from previous grant awards, including program income which has been returned to the State, may be reallocated at the discretion of the Director so as to best achieve the goal and objectives of the State CDBG Program.

Estimate of Funds to Benefit Low and Moderate Income Persons

The Housing and Urban-Rural Recovery Act of 1983 requires that the State estimate the amount of CDBG funds proposed to be used for activities that will benefit low and moderate income persons, excluding administrative costs. The State's estimate of funds to be used to benefit low and moderate income is based upon the following calculations:

Total estimated CDBG funds available for award to local governments	\$6,051,740
Less 18% ceiling permitted for local project administration	<u>(1,089,313)</u>
Sub-total	\$4,962,427
Multiplied by minimum 51 percent benefit required for low and moderate income persons	$.51 \times \$4,962,427 = \underline{\$2,530,838}$

Thus the State estimates that not less than \$2,530,838 of Montana's fiscal year 1985 CDBG allocation will be used to benefit low and moderate income persons. The actual amount may be higher depending upon the nature of individual projects awarded CDBG funds through the 1985 program.

GRANT CEILINGS

The total amount of CDBG funds requested by an applicant must not exceed the ceilings indicated as follows:

Type of GrantCeiling

Single Purpose:

Economic Development

No more than 50% of funds initially available for the economic development reserve. (\$302,587 for 1985)

Housing and Neighborhood

Revitalization

\$400,000 for one year

Public Facilities

\$400,000 for one year

Multipurpose

\$500,000 per year for a maximum of two years

Applicants should apply only for the level of funding necessary to carry out the project. Grant requests must be sufficient either by themselves or in combination with other proposed funding sources to complete the proposed activities within the contract period. While grant ceilings establish the maximum amounts which may be requested, individual grants will be awarded only in amounts appropriate to the scope of the identified problem, the proposed project activities, and the needs, resources and administrative capacity of the applicant.

There are no minimum amounts required for grant requests. A community considering a relatively small grant request should consider whether the proposed project would result in questionably high administrative costs relative to the actual project cost. In these circumstances, applicants are encouraged to contact the Department of Commerce to discuss their proposed project prior to submittal of the application.

III. GENERAL POLICIES FOR ALL CDBG PROJECTS

1. Local Support for Community Development Activities

The Montana CDBG Program is intended to supplement the efforts of local governments in dealing with their most serious needs. Because of the limited funds available, the State CDBG Program cannot be expected to serve as a source of general support for on-going community development activities.

In order to increase the potential impact of limited CDBG funds, local governments are encouraged to take all appropriate available actions to support the objectives of their proposed CDBG project. Depending on the focus of the proposed project, these actions may include amending local zoning ordinances, adjusting user rates and fee schedules for public services, implementation of capital improvements and maintenance programs, creation of special improvement districts, local financial participation in the proposed CDBG project, or inclusion of private sector financing.

2. Leverage of Other Funds

"Leverage" is a term used to refer to the participation and use of non-CDBG resources in local CDBG projects. With the limited State and federal funds available for support of local community development activities, it is in the best interest of the State and Montana communities that applicants seek out and coordinate with other appropriate potential financial resources in order to increase the impact of their CDBG projects upon local needs. Other sources can include the private sector or local, State or federal funds.

3. Environmental Impact

All CDBG projects are subject to the National Environmental Policy Act and the Montana Environmental Policy Act. Both laws seek to avoid adverse impacts on the environment by mandating careful consideration of the potential impacts of any development assisted with federal funds or approved by a state agency. Applicants are encouraged to be sensitive to potential environmental impacts while their CDBG projects are first being considered and planned in order to avoid problems which could delay or even prevent a project from being implemented. Appendix E (Statement of Assurances) contains a listing of the major federal environmental statutes and regulations which will apply to all CDBG funded projects. Applicants should carefully consider these to be sure that their proposed project will comply with the laws or regulations cited. Local officials who have any concerns or questions regarding the potential environmental impacts of their proposed CDBG project or the environmental requirements should contact the Department of Commerce for guidance.

IV. GENERAL REQUIREMENTS FOR ALL CDBG PROJECTS

In order to be eligible for an award of CDBG funds, applicants must comply with the following requirements. Local officials having any concerns or questions regarding these requirements should contact the CDBG staff, Department of Commerce, Community Development Division, for guidance as early as possible in the process of preparing an application.

1. Eligible Applicants

Eligible applicants are limited to general purpose local governments: counties, incorporated cities and towns, and consolidated city-county governments. Among municipalities, only Billings and Great Falls are ineligible to apply to the State CDBG Program because they receive CDBG funds from a separate HUD allocation for communities with populations over 50,000. Montana's Indian tribes also receive CDBG funds from a separate HUD CDBG program and are not eligible to apply to the State program.

Special purpose agencies such as local housing authorities, water or sewer districts, or local development corporations are not eligible to apply directly; however, they may be involved in implementing and administering a program by interlocal agreement, if an eligible applicant agrees to such an arrangement.

County Applications

For projects proposed to resolve problems in unincorporated areas of a county, the county governing body is the eligible applicant. A county may apply for a project which will include activities within an incorporated city or town if the proposed activity is intended to serve all county residents, including those located in the unincorporated area of the county, as well as those within the city or town, such as a fire protection facility which would be located in the county seat and serve all residents of the county.

Municipal Applications

For projects proposed to resolve problems in an incorporated city or town, the city or town governing body is the eligible applicant. A municipality may apply for a project which would include an activity to be located outside city limits if the proposed activity will principally benefit residents of the city, such as a solid waste disposal site or a water or sewage treatment facility.

Joint Applications

In situations where two or more eligible local governments face a common community development problem, a joint application may be submitted under the following conditions:

1. the problem to be addressed lies in an area of contiguous or overlapping jurisdictions;
2. the solution to the common problem clearly requires cooperative action and is the most efficient strategy; and
3. the local governments involved have contacted the Department of Commerce and received prior approval of such an arrangement before submission of an application. Requests for approval must be submitted at least 30 days prior to the due date for applications.

The eligible local governments involved must each meet the threshold requirements for all applicants. One local government must be designated as the lead applicant and accept full responsibility for application submission and, should the application be awarded funds, for administrative and financial management during the term of the CDBG project.

All joint applications must contain a draft interlocal agreement, in accordance with the Montana Interlocal Cooperation Act (Sections 7-11-101 through 108, MCA), which identifies the responsibilities and obligations of the cooperating local governments, including long-term operation and maintenance, if applicable.

2. Number of Applications Permitted Per Applicant

Eligible applicants may submit only one application to the Fiscal Year 1985 Montana CDBG Program regular fall competition. If unsuccessful, applicants may reapply for the March 1986 economic development competition if the conditions described below in number 3, Re-application have been met.

3. Re-application

A current recipient of a single year or multi-year funding commitment is not eligible to reapply for the 1985 CDBG program until the following conditions have been met:

Fiscal Year 1982 grantees - CDBG funds 100% expended, project completion report submitted and audit scheduled.

Fiscal Year 1983 grantees - CDBG funds 90% drawn down or activities completed.

Fiscal Year 1984 grantees - CDBG funds 75% drawn down or activities completed.

Any reapplying current grantee with an uncompleted project must provide a schedule for completing the existing project.

A local government which has tentatively been awarded a multi-year multipurpose grant will not be required to compete for funds for the subsequent fiscal year of the State's commitment to the project. Funds will be provided in the subsequent year, subject to congressional and legislative appropriations, conditional upon the

submittal of an acceptable work plan, and upon a determination by the Department of Commerce that the previous year's project performance was adequate. The performance determination will be made at the time the project performance report and subsequent year's work program and request for funding is submitted.

The re-application requirement does not apply to recipients of CDEG funds made available under Public Law 98-8, the "Jobs Bill" of March, 1983.

4. Community Development Needs Assessment

The Urban-Rural Recovery Act of 1983 requires that each CDBG recipient must "identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs."

The new federal requirement is very similar to the needs assessment requirement incorporated in the Montana CDEG Program. It was intended by Congress to be an abbreviated planning process which will promote better coordinated strategies for addressing local needs, particularly as they affect low and moderate income persons.

At a minimum, the Needs Assessment should include specific sections which describe:

1. The process used to identify community development needs and establish priorities and objectives, including efforts to encourage meaningful participation of local citizens, particularly those of low and moderate income;
2. The applicant's community development needs in economic development, housing and public facilities, including the needs of low and moderate income persons, and its priorities for responding to the needs;
3. The planned activities to be undertaken to meet the identified needs; and
4. The alternative projects considered for CDEG funding and the rationale for selecting the proposed project(s).

The project proposed in the community's CDBG application does not have to be the highest priority community need. There are a number of reasons, including the availability of other, more appropriate local, State or federal resources, which would justify submitting a CDBG application for other than the top-ranked community need.

The CDBG Needs Assessment requirement is not intended to duplicate the on-going local comprehensive planning process being used by many Montana communities. To the contrary, as an initial step in the needs assessment process applicants should review their existing comprehensive plan and community development objectives. The needs assessment requirement can also provide an opportunity to review

existing capital improvements, economic development, or housing plans, to determine if they still adequately reflect current conditions, needs, and community goals.

The needs assessment process does not have to be conducted annually for applicants re-applying for CDBG funds if a previously prepared needs assessment still accurately reflects existing conditions and community development objectives and meets the requirements set out above. If an existing needs assessment will be used as the basis for re-application, the applicant should solicit public comments on the previously identified community needs and priorities at one or more of the public hearings required by Section 5. Citizen Participation.

There is no one recommended procedure for preparing a community development needs assessment. In the past, some local governments have assigned the needs assessment to an existing local planning board. Others have formed special short-term committees or utilized community-wide town meetings, neighborhood meetings, or community surveys. Whatever approach is followed, the applicant must, at a minimum, meet the citizen participation requirements described in the previous Section 5. Citizen Participation. (For further information, applicants can review the Department of Commerce guidelines, "The Community Development Needs Assessment Process.")

A summary of the applicant's Community Development Needs Assessment must be submitted as part of the CDEG application. The summary should not exceed five pages in length.

5. Citizen Participation

Applicants must provide citizens, especially low and moderate income residents, an adequate opportunity for meaningful involvement in the planning and development of CDBG applications. Examples of actions applicants may take to ensure citizen participation include meeting with community groups and leaders prior to public hearings, holding informational meetings in proposed project areas, and distributing notices of public meetings to residents in the proposed project area.

At a minimum, the applicant must hold two public hearings, one before preparing the application and one prior to passage of a resolution by the governing body authorizing the submission of the application. The public hearings may be conducted either as part of a regularly scheduled meeting of the governing body or as hearings convened especially for CDBG purposes.

The purpose of the first public hearing is to inform citizens about the CDBG program, how it may be used, the variety of activities eligible for funding and other general program requirements, as well as to solicit public comment, particularly from low and moderate income people, on community needs and priorities for economic development, housing and public facilities, including the needs of low and moderate income persons. In considering the needs of low and

moderate income, the governing body is encouraged to consider the needs of households which may be especially needy, such as those with lower incomes, female heads of family or minority, elderly or disabled members.

The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed project adequate opportunity to review and comment on the community's CDBG application, including the proposed project location, activities, budget (including the estimated amount proposed to be used for activities that will benefit low and moderate income), and, if appropriate, the plans of the grantee for minimizing displacement of persons as a result of activities assisted with CDBG funds, before the community submits its application.

Notice of each public hearing should be published at least once in a newspaper of general circulation in the community at least seven days prior to the hearing. In addition to the published notices, the applicant should make reasonable efforts to inform citizens of the hearings who may be affected by a CDBG project but who might not be reached through formal newspaper notices. Such efforts might include the distribution of leaflets or notices to local organizations or churches, or posting of notices in ways customary to the community. These efforts should be especially concentrated in any neighborhood which may be affected by a proposed CDBG project. The hearings should be scheduled at times and locations which will encourage broad citizen participation. (Communities without a newspaper may substitute alternatives such as radio announcements, mailed notices, and posters.)

A record of the required hearings must be submitted with the application for CDBG funds, along with copies of the public notices for the hearings or affidavits of publication for the notices. A verbatim record is not necessary; the names of persons who attended and a summary of comments by local officials and citizens is sufficient.

6. Eligible Activities

Projects may consist of one or more related activities within a general category. The activities which are eligible for funding under Montana's CDBG Program are limited to those set out by Congress in Title I of the Housing and Community Development Act of 1974, as amended by the Housing and Urban-Rural Recovery Act of 1983. The text of the act describing eligible activities is contained in Appendix A of these guidelines. As a result of the Housing and Urban-Rural Recovery Act of 1983, new HUD guidelines for state administration of the CDBG program mandate adherence to existing HUD regulations for "Entitlement" CDBG communities (over 50,000 population) regarding eligible activities. The text of the HUD Entitlement regulations is contained in Appendix C; a copy of the February, 1984 HUD guidelines regarding the 1983 amendments is contained in Appendix D.

Comment:

The U.S. Department of Housing and Urban Development is currently preparing separate regulations for the State-administered CDBG Program that will eventually supercede the HUD Entitlement regulations and interim guidelines referred to above. However, preliminary drafts of the regulations indicate that HUD will be imposing restrictions on eligible activities which are identical to those incorporated in the HUD regulations for Entitlement communities (over 50,000 population). Unlike past practice under the 1982 and 1983 Montana CDBG Programs in which applicants justified projects, as a whole, as responding to one of the three national objectives, Congressional amendments now require applicants to cite the national objective being met for each activity proposed within the overall project (other than administration). In the 1984 program, all applicants justified their projects on the basis of benefit to low and moderate income. To provide maximum flexibility for grant recipients in anticipation of more restrictive HUD regulations, fiscal year 1984 grantees and applicants for 1985 CDBG funds may cite any one of the three national objectives to justify the activities proposed in their application. (This change will not affect the existing requirement that 51% of all non-administrative funds be used for activities that will benefit low and moderate income.)

The following review process may prove helpful in determining whether a specific activity is eligible under the Montana CDBG Program and whether any special requirements exist which must be met as a condition of eligibility:

1. Describe the activities proposed to be paid for with CDBG funds.
2. Compare the proposed activities with the list of eligible activities authorized by Congress in the federal Housing and Community Development Act (see Appendix B).
3. If they appear eligible, compare the proposed activities with the September, 1983 HUD Entitlement regulations for eligible activities (Subpart C, page 43558 of Appendix C).
4. If they are eligible, compare the proposed activities with the February, 1984 HUD guidelines regarding the new requirements established by the 1983 amendments to determine if any additional conditions were imposed by Congress (see Appendix D).
5. In particular, review pages 43575-43577 of Appendix C and pages 8-9 of Appendix D regarding federal standards for qualifying activities under the three national objectives.
6. Identify the project category for application purposes that the activities best fit.
7. Review the special requirements for that project category.

In selecting activities for a CDBG application, communities should be aware that the fact that an activity may be legally eligible under the federal statute and HUD regulations does not insure that it

is a priority under the guidelines and ranking system incorporated in the State CDBG Program or that it will compete as effectively as others. For example, local comprehensive planning activities are eligible under the federal statute; however, the State CDBG project evaluation criteria do not make an application for that type of activity competitive. Any project under consideration for CDBG application should be compared against the evaluation criteria for that category.

7. Benefit to Low and Moderate Income

Each applicant must document in its application that a minimum of 51 percent of the non-administrative funds requested for a CDBG project will be used for activities that are clearly designed to meet identified needs of persons of low and moderate income in the area. Applicants must also demonstrate that any activities proposed will not benefit moderate income persons in a manner which would exclude or discriminate against low income persons.

The Housing and Urban-Rural Recovery Act of 1983 established a national definition of "low and moderate income" for CDBG purposes which is the same as that utilized in Montana's program for Fiscal Years 1982 and 1983: a person or household whose total gross, unadjusted income does not exceed 80% of the median income for all persons or households in that county. "Low income" is defined as a person or household whose total gross, unadjusted income does not exceed 50% of the median income for all persons or households in that county. Under the new law, states must utilize the income definition used for the HUD "Section 8" Assisted Housing Program.

The 1983 Housing and Urban-Rural Recovery Act also established conditions for demonstration of benefit to low and moderate income for certain CDBG-eligible activities. Applicants should review the text of these statutory conditions in Appendix B in conjunction with the HUD regulations and guidelines in Appendices C and D to determine their applicability to any project under consideration.

Compliance with the benefit to low and moderate income requirement will be calculated on an activity-by-activity basis. While more detailed direction is provided in the HUD regulations and guidelines (Appendices C and D), the following general guidelines can be used in determining, on a case-by-case basis, projects (activities) which benefit low and moderate income households:

- the project has income eligibility requirements that limit the benefits of the project to low and moderate income persons; or
- the project does not have income eligibility requirements but serves an area where at least 51 percent of the residents are low and moderate income persons and provides services for such persons; or

- the activity must be carried out prior to or as an integral part of a project which will principally benefit low and moderate income persons (e.g., extension of water and sewer lines to permit construction of low income housing, etc.); or
- the project involves employment of persons, a majority of whom are persons of low and moderate income.

Applicants proposing to use CDBG funds for area-wide activities (such as a community-wide public facility project) must provide income data to demonstrate that at least 51% of the persons who would benefit from CDBG assistance have low or moderate incomes.

Applicants intending to conduct local surveys of household income must utilize the income levels established for their county according to the various household sizes contained in Appendix E. Applicants must follow the Department of Commerce "Guidelines for Documenting Benefit to Low and Moderate Income Persons" (see Appendix F). An applicant's failure to assure a statistically valid and sufficiently random sample for a local income survey will be considered sufficient grounds to discount claims made for percentage of benefit to low and moderate income persons during the application ranking process. If an applicant intends to use an alternative format or methodology, it must seek prior approval from the Department of Commerce before conducting the survey.

8. Justification for Grant Request

Each applicant must demonstrate that the proposed CDBG activities offer a solution to an identified community development need which could not reasonably be accomplished by the applicant without CDBG assistance. The applicant must substantiate that other private or local, state or federal resources are not available to address the identified need and must justify the level of local financial participation in the proposed project.

9. Budget

Each applicant must propose a budget which is sufficient to assure effective administration and timely project completion. (Budget forms are available from the Department of Commerce.) The budget must be accompanied by a narrative justification for the specific proposed CDBG project activities and related administrative costs, including a breakdown of total project costs which identifies sources and amounts of all non-CDBG funds to be used. The cost estimates for each item in the proposed budget must be explained in the narrative. If other sources of funds are needed to complete the project, the status of these funds and how they will be used with CDBG funds should also be described.

The total budget of any proposed CDBG project should be divided between "activity costs" (such as "public facilities construction" or "housing rehabilitation") and "administrative costs." The

administrative budget covers the costs of implementing a local project, including costs involved in preparing the required environmental review; the cost of the local project audit; and other contractual costs for professional services that may be associated with administration of the program. In no case may the administrative budget for the grant exceed 18 percent of the total grant requested.

Administrative costs must be appropriate and commensurate with the project being undertaken. Any proposed administrative costs must be eligible, fully supported, and explained. Costs which can be specifically attributed to a project activity should be reflected in that budget rather than in the administrative budget (e.g.; appraisal costs would go under land acquisition, housing inspections would go under housing rehabilitation, etc.) Applicants which propose to contract for project management assistance must specifically itemize this amount in the administrative budget and explain it.

Under no circumstances are costs incurred prior to award of the grant (such as application preparation fees, costs associated with conducting a local survey, and preliminary engineering studies) eligible for reimbursement in the event of a grant award.

The Montana Department of Commerce operates under U.S. Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State and Local Governments) and Circular A-102 (Uniform Requirements for Assistance to State and Local Governments). The guidelines contained in these documents generally describe the eligible grant costs and methods of grant administration.

Applicants should be especially careful to see that all potential costs for carrying out the project are identified prior to submitting the application.

Consideration should be given to costs such as:

- conducting the environmental review and publishing required public notices;
- Davis-Bacon (prevailing wage) construction costs;
- preparation of reports;
- travel;
- staff training;
- legal services;
- acquisition of land or easements;
- appraisals;
- relocation;
- bookkeeping;
- audit;
- compliance with state and federal requirements;
- engineering design;
- construction inspections; and
- day-to-day project management activities specific to the type of project proposed.

The Department recommends that applicants budget from \$2,000 to 3,000 for final project audit. Applicants should budget \$1,000 for technical assistance from the DOC Local Government Services Division in establishing their financial management system for project funds, unless they have been a prior grant recipient under the State CDBG Program and have already received this assistance.

10. Public or Private Sector Commitments

If public or private sector resources are to be involved in a proposed CDBG project, the applicant must provide evidence of the firm commitment of those resources. Such commitments should be binding, contingent only upon the award of CDBG funds for the project.

In documenting a public commitment, the public agency must specify the amount and use of the funds or resources. Funds or resources committed by a local government must take the form of a resolution by the governing body which specifies the approximate amount of the commitment. Funds or resources from a State or federal agency must be confirmed by letter. The commitment of funds or resources may be made on the condition that CDBG funds are made available for the activity proposed to be undertaken.

In documenting a private commitment, the private participating party must specify the amount of the commitment and use of the funds. The commitment of resources may be made on the condition that CDBG funds are made available for the activity proposed to be undertaken. If any portion of the activity is to be self-financed, the private participating party must provide evidence of its financial capability through a corporate or personal financial statement or through other appropriate means.

11. Program Income

"Program income" is any income earned by a grantee from CDBG supported activities such as repayments of principal and interest to a local revolving loan program for housing rehabilitation. These funds are often received after a project has been completed and closed out and may be retained at the local level, with prior Department approval, to be used for community development activities eligible under the CDBG program. An applicant proposing to retain program income must submit, with its application, a plan for the on-going use and financial administration of program income.

Under a new provision established by the Housing and Urban-Rural Recovery Act of 1983, the State may establish a grant condition which requires a grantee to return any program income to the State. The State may then use the program income to fund additional eligible CDBG activities. The State must waive this condition "to the extent such income is applied to continue the activity from which such income was derived," and the grantee can retain the program income.

The use of program income is governed by Attachment E of OMB Circular A-102. Those regulations provide that if program income is earned during the term of the project it must be added to funds committed to the project and used to support CDBG eligible activities or spent on costs budgeted for CDBG funds before the grantee can request an additional drawdown of funds from its CDBG project account.

Except as provided in the grant application or project closeout agreement with the Department of Commerce, program income received after project completion may be treated by the grantee as miscellaneous non-CDBG revenue with this exception: in the event that a community is a recipient of CDBG funds at a later date, HUD regulations require that program income from an earlier CDBG project be expended on activities under the new CDBG project before the community can request funds from its new grant.

Communities planning to utilize program income for future CDBG eligible activities must be prepared to maintain the following records:

- sources of program income;
- dates and amounts of program income deposits;
- interest earned;
- dates and amounts of all disbursements of program income;
- and
- the activities funded with program income.

These records must be available for review in the event that the community is an applicant for CDBG funds at a later date.

12. Documentation

Each applicant should identify the source of supporting data for any claims made in the application. If local research was conducted to support the application, such as a survey of housing conditions or income levels, the survey method must be described and a copy of the survey form with a composite summary of all responses submitted with the application.

Applicants must utilize the current Department of Commerce model formats available for income and housing condition surveys. If an applicant intends to use an alternative methodology or format, it must seek prior approval from the Department before conducting a local survey.

The applicant may use a survey conducted previously if it conforms to current Department guidelines and still accurately reflects local conditions.

All original documentation must be retained by the applicant and made available for review in the event that the application is tentatively selected for funding. The lack of adequate documentation to substantiate information contained in the application will be considered sufficient grounds for the Department to re-rank an application and, if justified, to withdraw a tentative grant award.

13. Maps

Each application must include clearly legible maps which illustrate the applicant's political jurisdiction and the proposed project area. Applicants are encouraged to submit maps at the minimum size and scale that will clearly convey all required information. Applicants may submit maps of a different scale where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

Political Jurisdiction Map

The map of the applicant's political jurisdiction must identify:

- the boundaries of the entire jurisdiction;
- the project's location within the jurisdiction;
- if applicable, the service area of the project; and
- the location of any areas with concentrations of minority and low and moderate income persons, including number and percent.

This last requirement will be used to demonstrate compliance with Title VI of the Civil Rights Act of 1964 which states:

"No person in the United States shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Project Area Map

The map of the proposed project area must identify:

- the boundaries of the project area; and
- the locations of all proposed activities such as land to be acquired, buildings to be demolished, streets or water lines to be reconstructed, and blocks where housing will be rehabilitated.

All project activities must take place within the project area boundaries, unless specifically authorized by the Department of Commerce.

Maps identifying the enumeration districts within each county may be ordered from the Census and Economic Information Center, Montana Department of Commerce, Capitol Station, Helena, Montana 59620, (telephone 444-2896). Microfiche copies of the county enumeration district maps are available free; paper copies of the maps may be purchased.

Maps of Montana's counties, cities and towns can also be ordered from the Montana Department of Highways, Planning and Statistics Bureau, 2701 Prospect Avenue, Helena, Montana 59620 (telephone 444-6119.)

14. Federal and State Requirements

Each applicant must agree to comply with the federal and state requirements set out in Appendix G (the CDBG Statement of Assurances) in implementing their proposed CDBG project, if selected for funding. Applicants should carefully review these requirements and consider their potential impact when designing their CDBG project. These laws cover a wide range of issues including environmental impacts, labor standards, employment practices, financial procedures, and civil rights, many of which can have an affect on the costs or complexity of project administration.

15. Resolution of Authority

Each application for CDBG funds must be accompanied by a copy of a resolution or motion duly adopted or passed as an official act by the applicant's governing body which:

- authorizes the submission of the application;
- states the applicant's willingness to abide by the CDBG Statement of Assurances (Appendix G); and
- authorizes the applicant's chief elected official to act on its behalf in regard to the application and to provide such additional information as may be required.

The Department of Commerce will assume that the applicant has legal authority to apply for the grant and to implement the proposed project unless it is aware of evidence to the contrary.

16. Management Capacity

To be awarded a grant under the CDBG Program, an applicant must have the management capacity to undertake and satisfactorily complete the project it is proposing. Based upon evidence in the application and unless generally available information raises a question concerning an applicant's capacity, an applicant is assumed to have the capacity to undertake the proposed project. If any question arises during the evaluation of the application, the Department of Commerce may request additional information.

Extensive federal regulations must be complied with in administering CDBG funds. (Appendix G contains a listing of the major federal statutes and regulations which apply to CDBG projects.) If an applicant does not feel that it currently has the management capacity to manage a CDBG grant, it may propose to hire administrative staff or arrange for project administration by another local government through interlocal agreement or by contracting for administrative services, after grant award. In all cases, the applicant must assume direct responsibility for proper financial management of CDBG funds awarded to it.

17. Displacement

CDBG grantees must provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of CDBG funds to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to property not governed by the federal Uniform Relocation Act.

The Housing and Urban-Rural Recovery Act of 1983 requires each State to minimize the displacement of persons which may occur as a result of activities assisted with CDBG funds. When a proposed CDBG project will result in direct or indirect displacement of community residents, the applicant must describe the actions to be taken to assist such persons to remain in their neighborhoods when they prefer and to provide equitable and reasonable benefits to those persons who will be involuntarily and permanently displaced. The adequacy of each displacement mitigation proposal will be assessed by the Department of Commerce on the basis of:

- its responsiveness to displaced persons needs;
- the timeliness of the remedy; and
- the reasonableness of projected costs.

V. APPLICATION EVALUATION AND RANKING

The Montana Department of Commerce will award Fiscal Year 1985 CDBG funds for the following three grant categories on the basis of the September 1985 competition:

- single purpose housing and neighborhood revitalization,
- single purpose public facilities, and
- multipurpose.

Applications for these categories must be submitted by September 16, 1985 (postmarked on or before September 15th).

Economic development applications will be evaluated according to the procedures and criteria described on pages 63 through 74.

Applications for all categories will be evaluated by applying ranking criteria against proposed project activities. These criteria have been established to identify projects which are well planned and most clearly further State and national objectives for the CDBG program. Each application will be evaluated only against others competing in the same category.

The selection of the appropriate grant category is the applicant's responsibility. If an application is submitted under an inappropriate category, the Department reserves the right to review it under the proper category. If it is determined that it is necessary to change the category of an application, the applicant will be notified.

Local officials having any concern or questions regarding the proper category for the CDBG project they are considering should contact the Department of Commerce for guidance as early as possible in the process of preparing an application.

Any project under consideration for a CDBG application should be compared against the evaluation criteria for the appropriate grant category. Not all the criteria in each category are of equal importance. Each criterion has been assigned a number representing its relative importance or weight. By reviewing the criteria and the weight in potential points assigned to them applicants should have a better sense of the major issues involved in designing a competitive proposal and the relative effort which should be devoted to responding to each criterion. Any person with a question or concern regarding the ranking criteria should contact the Department's CDBG staff prior to application.

The individual applications submitted under each project category will vary depending upon the project activities proposed, the size and character of the municipality or county applying, and each applicant's unique response to its own particular community's specific needs. Because no purely quantitative measures exist which can anticipate the variety of potential community development needs and all responses to them, the ranking must be in part subjective. In evaluating the

applications the Department will take into account not only how well each applicant addresses the problems it has defined, but also how its problems and responses compare with those of other applicants in the same grant category.

RANKING PROCESS

Upon submission, Department of Commerce CDBG staff will review each application for completeness and for conformance to federal and State requirements. In general, information submitted by the applicant after the due date for applications will not be considered unless specifically requested by the Department. Applicants are expected to keep the Department informed of any developments during the review process which would adversely affect the viability of the proposed project. The Department may contact the applicant to obtain omitted information, to clarify issues, or to verify information contained in the application.

Ranking teams for each project category will be appointed by the Director of the Department of Commerce from State agency staff. Team members will be selected based on their knowledge and experience in public facilities, housing, public administration, economic or community development, or in program or financial management. Applications will be evaluated by the ranking teams using the appropriate criteria and numerical point systems described in these CDBG application guidelines. The ranking teams will serve in an advisory capacity to the Director regarding the applications that should be considered for CDBG awards. Consequently, the evaluation sessions of the ranking teams are not "meetings" for purposes of the Montana Open Meeting Law (Section 2-3-203, MCA).

The Department may supplement application materials, as needed, by consulting public or private agencies knowledgeable about proposed projects or particular community problems. The Department will provide for outside technical review of applications by other public or private agencies or professionals when deemed necessary to assure adequate review. Site visits may be made to the proposed project area for the purpose of verifying or further evaluating information contained in the application.

After reviewing each application and any technical review comments, the ranking team will assess the degree to which the proposed project responds to each of the applicable criteria. Scores will be the assigned according to the point values established for the criteria. The lack of a response to a criterion will result in zero points. If the ranking team determines that the applicant has inadequately documented specific claims made in responding to a criterion, it may assign the application a lower score than would otherwise have been assigned. Likewise, numerical or percentage claims will only be accepted and considered valid to the extent to which they are clearly substantiated by accompanying documentation.

The ranking team's deliberations and the evaluation of applications are not subject to the provisions of Sections 1-3-101 through 2-3-114, MCA, concerning public participation in governmental decisions.

Based upon the order of scores for the applicants in each category, the ranking teams will submit their recommendations for grant awards to the Director of the Department for his consideration. The final decision on grant awards will be made by the Director. The actual number and types of awards will be subject to funding availability, and the amount of each applicant's request, and the procedures set out under "Distribution of Funds." In the event of tie scores, projects will be selected on the basis of the Director's judgment of the overall quality of the proposed projects and their consistency with the goal and objectives of the Montana CDBG Program.

SPECIAL REQUIREMENTS AND RANKING CRITERIA

The following sections set out the special requirements for each grant category which must be met in order for an applicant to be eligible for an award of CDBG funds, as well as the ranking criteria applicable to each grant category. Each category has its own set of criteria which are used to rank projects applying under that category.

Single Purpose

Housing and Neighborhood

Revitalization pages 37-50

Public Facilities pages 51-62

Economic Development pages 63-74

Multipurpose

pages 75-79

VI. SPECIAL REQUIREMENTS AND RANKING CRITERIA FOR HOUSING AND NEIGHBORHOOD REVITALIZATION PROJECTS

SPECIAL REQUIREMENTS

In addition to the general requirements which are applicable to all CDBG projects, applicants for a housing and neighborhood revitalization grant must meet the following special requirements in order to be eligible for an award of CDBG funds.

1. Housing and Neighborhood Revitalization Plan

The applicant must submit a short (5 page maximum) description of its plan for addressing local housing needs and revitalizing residential neighborhoods. The description should include, at a minimum, discussion of the following elements:

Need

What are the housing needs of the residents of the community, particularly those of low and moderate income households?

Goals

What is the community attempting to accomplish through its total housing and neighborhood revitalization plan (not just those activities for which CDBG funding is sought)?

Resources

What public and private resources, both financial and technical, does the community have available to it to help carry out the housing and neighborhood revitalization plan?

Strategy

What strategy is the community using to pursue its housing and neighborhood revitalization goals?

Results

Any quantifiable results from past housing or neighborhood revitalization efforts should be identified. For example, how many new units have been constructed, existing units rehabilitated, or units not suitable for rehabilitation demolished? What blighted areas have been addressed through infrastructure improvements or other measures, and how?

Note: It is not necessary that the applicant follow the above format in describing its plan for responding to local housing and neighborhood revitalization needs. The description may combine or reorder the description of these elements, as long as all are addressed.

The following are some possible topics the applicant may wish to consider in preparing responses to the required plan elements. The examples given for each of the elements are merely suggestive of possible responses and should not be considered to be an exhaustive listing of desirable plan elements.

Needs

The description of needs should include a discussion of the condition of the existing housing in the community, including the number of standard and substandard units, with particular emphasis on the housing conditions for low and moderate income households and conditions in the project area. The number of substandard units suitable for rehabilitation should be identified separately from those not suitable for rehabilitation. Estimates should be made of vacancy rates for non-seasonal available units in standard condition. If the plan includes community-wide map(s) depicting housing conditions, a copy should be attached.

Needs are usually classified and described by tenure (owner or renter) and household type (elderly, female head of household, physically handicapped, developmentally disabled, small families and non-elderly persons, and large families (those with six or more children), particularly as these groups are composed of low and moderate income households.

The applicant may also consider any special needs of low income households separately from moderate income.

Particularly if the proposed project includes revitalization activities, the description of needs should also discuss the extent of blighting conditions in the community, the extent of infrastructure problems related to that blight, building abandonment, the percentage of housing built prior to 1950, housing costs, or similar indicators of housing need or neighborhood decline.

Goals

Goals might include trying to conserve and/or upgrade existing housing stock, encouraging rehabilitation of historical structures, providing additional rental housing, encouraging the development of new housing, providing more adequate housing for particular groups with special needs (the elderly, the handicapped, female heads of households or minorities), supporting the revitalization of deteriorated or declining neighborhoods, or eliminating blighting conditions through code enforcement, demolition, and related activities. The list of the State's CDRG objectives for Housing and Neighborhood Revitalization provides other examples which could be adapted for local goals. (See page 12.)

Resources

Resources may be of a wide variety. For example, does the community have a local housing authority or similar body? Has any agency or organization assigned staff members to work on housing activities

for a major portion of their time? Has the financial community demonstrated its willingness to participate in housing development activities? Do any community organizations exist which might participate in a housing and neighborhood revitalization program? Are home weatherization services available through a human resource development council or low interest loans from the power company? Are energy audits available through local utilities? Has the local government considered any regulatory or other actions to encourage property maintenance or improvements or to eliminate blighting conditions, such as code enforcement or establishment of tax incentives for building remodeling authorized by Section 15-24-1501, MCA.

Strategy

Strategy might include a description of the strategy the community is using to pursue its housing and neighborhood revitalization goals within the project area and the community at large, including increasing housing choice for low and moderate income. For example, what specific activities have been identified as components of that strategy? Which has been assigned first priority? second? third? How much will each cost? What funding sources have been identified for each? Have any funding commitments been received? What will the local government do to support these activities? Has it considered making any improvements to public facilities and services to support its housing and neighborhood revitalization goals? What actions will be taken to affirmatively further fair housing opportunities, and to minimize displacement and mitigate any adverse impact it will have on low and moderate income persons.

Results

Results might include a discussion of the projects the community has already undertaken within the project area or the community at large to meet local housing needs, the sources of funding that were used (HUD, FmHA, private, etc.), and other actions the community has taken to encourage improvement of housing conditions (code enforcement, neighborhood weatherization programs, provision of land for new housing development, extension of utilities to areas previously lacking them, etc.).

HOUSING REHABILITATION GUIDELINES

The Housing and Neighborhood Revitalization grant category allows a variety of activities which can be directed toward improving or preserving residential areas and providing decent, safe, and sanitary housing for low and moderate income families including housing rehabilitation, site acquisition and clearance, demolition of substandard vacant buildings or improvements to public facilities.

Historically under the CDBG Program, housing rehabilitation has been the major focus of local CDBG housing projects. "Rehabilitation" includes using CDBG funds to make repairs to substandard residential structures to make them meet or exceed the requirements contained in current editions of the standards listed in Section 4, below. The following sections set out the State's basic guidelines for local housing rehabilitation activities.

2. Housing Condition Surveys

In order to provide a common standard to allow for comparison between communities, the Department of Commerce has prepared a model housing condition survey form (see Appendix H). Applicants planning to conduct a local survey should use the Department's form. To ensure the acceptability of local housing data gathered for CDBG application purposes, the applicant must obtain prior approval from the Department if an alternative form will be used.

3. Targeting of Housing and Neighborhood Revitalization Projects

Housing and neighborhood revitalization projects must be directed or "targeted" towards a single concentrated area of high need in order to assure adequate recognizable impact. (For small communities, the most appropriate target area may be the entire community.) The Department of Commerce may make an exception to this requirement only if the applicant can demonstrate satisfactorily that the alternative proposal is a reasonable means of addressing the identified needs. Requests for an exception must be submitted 30 days prior to the due date for application.

All project activities must take place within the project (target) area boundaries.

4. Code and Standards Enforcement

Applicants proposing housing activities must submit a description of their plan to ensure enforcement of the following applicable federal and State housing and building standards for the housing units to be assisted with CDBG funds:

- HUD Section 8 Housing Quality Standards;
- HUD Cost-Effective Energy Conservation Standards (CEFCUS);
- National Electrical Code, as amended;
- Uniform Plumbing Code, as amended;
- Uniform Mechanical Code;
- Uniform Building Code (where rehabilitation involves structures with five or more units, or any commercial buildings);
- and
- any locally adopted codes.

Permits must be obtained from the Building Codes Division of the Montana Department of Commerce, for all electrical and/or plumbing work undertaken with CDBG funds unless the grantee has been

certified by Division to enforce the codes cited above. In such cases, permits will be obtained locally. Grantees will be responsible for assuring that such work is inspected by proper authorities. Options to provide code inspection may include interlocal agreements with governments with existing building departments, arrangements with the Building Codes Division of the Montana Department of Commerce, or by contracting with qualified, private sector persons.

All electrical and/or plumbing work not done by the owner of a single-family structure must be done only by electricians and/or plumbers licensed by the State of Montana. A current listing of licensed individuals is available from the Professional and Occupational Licensing Division of the Montana Department of Commerce.

5. Year-around Occupancy

Housing to be rehabilitated with CDBG assistance must be intended for year-around occupancy.

6. Fair Market Rents

The September 1983, HUD Entitlement Program regulations (24 CFR 570.901(b)(1)(iv) now applicable to the State CDBG Program require that in order for the rehabilitation of multi-unit structures to qualify as benefiting low and moderate income persons, "... the units must be occupied by low and moderate income persons at affordable rents." For the purposes of the Montana CDBG Program, the current edition of the "Section 8 Moderate Rehabilitation Fair Market Rents" are adopted by reference and are to be used by grantees. This standard specifies maximum rents, including utility costs, by bedroom size and are adjusted by county. A copy of the current edition can be obtained from Housing Division of the Montana Department of Commerce.

7. Mobile Homes

If local guidelines permit the rehabilitation of mobile homes and manufactured houses, the units must conform to the following requirements in order to be eligible for rehabilitation with CDBG funds:

- the unit meets or exceeds the standards established by the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC 5401 et seq.);
- the unit and the land it rests on is in common ownership; and
- upon completion of rehabilitation activities, the unit will be attached to a foundation which cannot reasonably be relocated and which conforms to the Montana Department of Revenue criteria for assessment as an improvement to real property for tax valuation purposes.

The Department will waive these requirements only when it finds, based on information provided by the grantee, that no alternative affordable housing is available for residents of such units in the community.

8. Displacement Plan

The September 1983, HUD Entitlement Program regulations (24 CFR 570.305) now applicable to the State CDBG Program require that if any CDBG activity will result in displacement, the grantee shall adopt a policy for minimizing displacement of persons from their homes and neighborhoods and mitigating any adverse effects of displacement on low and moderate income policies. Each applicant selected for funding will be required to adopt such a policy as a condition of grant award.

9. New Housing Construction

CDBG funds cannot generally be used for the construction of new permanent residential structures or any program to subsidize or finance new construction, except as provided under the last resort housing provisions set forth in 24 CFR Part 42. Activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site and public improvements, and certain housing preconstruction costs are not considered as subsidizing or financing new residential construction, and therefore are eligible for CDBG funding.

10. Local Rehabilitation Guidelines

The CDBG Program allows communities considerable flexibility in designing and implementing local housing rehabilitation programs. The community may define its target area for rehabilitation activity, the persons eligible to receive assistance, the level of rehabilitation activity to be performed, the types of financing techniques to be used, and the contracting and inspection procedures to be followed.

In view of the extent of Montana's needs for rehabilitation of substandard housing and the comparatively limited CDBG funds available, the Department of Commerce encourages applicants to address the following in their rehabilitation guidelines:

- the targeting of assistance to those low and moderate income households which may be especially needy, such as those with low incomes, female heads of household, or elderly, handicapped or minority members;
- the establishment of a ceiling on the amount of funds to be spent on any one household; and
- policies to encourage comprehensive rehabilitation work on individual units to restore them to a safe, decent and sanitary condition and provide a suitable living environment.

In addition, the Department requires applicants to address the following in their guidelines:

- a plan to assure enforcement of applicable codes, standards, permitting and licensing requirements (see Section 4, Code and Standards Enforcement);
- that rehabilitation housing is intended for year-around occupancy (see Section 5, Year-around Occupancy);
- if rehabilitation of multi-unit structures is permitted, the local rehabilitation guidelines must incorporate the September, 1983 HUD CDBG Program regulation which requires that such units be occupied by low and moderate income persons at affordable rents in order to qualify as benefiting low and moderate income persons (see Section 6, Fair Market Rents); and
- if rehabilitation of mobile homes is permitted, the local rehabilitation guidelines must assure conformance to certain requirements (see Section 7, Mobile Homes).

A summary of the basic guidelines to be followed for a proposed housing rehabilitation project should be included in the CDBG application.

RANKING CRITERIA

Housing and neighborhood revitalization applications will be evaluated according to the following criteria and may be assigned up to a maximum of 800 points.

1. Rationale for Selection of the Project -- 75 points.

This criterion will consider the thoroughness of the applicant's:

- community development needs assessment process;
- citizen participation efforts, especially involving low and moderate income residents;
- housing and neighborhood revitalization plan;
- the relationship of the proposed project to the needs assessment and the housing and neighborhood revitalization plan; and
- the rationale for the selection of the project area.

A higher score on this criterion would likely result when:

- the applicant has thoroughly documented and assessed its overall community housing and related needs as well as the needs within the project area, including the particular needs of both low and moderate income households (including owners and renters) and households which may be especially needy such as those with low incomes, female heads of family and minority, elderly or disabled household members;

- the applicant has established priorities for dealing with its overall housing and related needs; has reviewed its alternatives for dealing with those needs, taking into account all local, state and federal resources; and has developed a well-reasoned and achievable long-term plan with step-by-step actions necessary to respond to local housing needs;
- there is evidence of active citizen participation, especially low and moderate income residents, in the development of the community needs assessment, the housing and neighborhood revitalization plan, and in the selection of the CDBG project and project area; and
- the applicant has demonstrated a sound rationale describing why the activities proposed are consistent with the housing and neighborhood revitalization plan (as well as with a capital improvements plan, if applicable), are the most appropriate ones to meet the identified needs, and has justified the approach taken to respond to the identified needs by discussing the alternatives considered before selecting this option.

Each application will receive points depending upon its response to the criterion:

BEST	75 points
ABOVE AVERAGE	56 points
AVERAGE	38 points
BELOW AVERAGE	19 points

2. Need -- 150 points

The need for housing improvements and neighborhood revitalization generally results from the deterioration of the local housing stock or the lack of affordable housing due to an inadequate supply of rental units or due to low incomes along with high interest rates and energy costs. Each applicant must provide a narrative which describes the nature of the overall housing needs within the proposed target area and any blighting influences impacting the area. Page 38 under "needs" describe a variety of indicators for housing and revitalization needs which may be appropriate, given the focus of the proposed housing project.

Applications proposing housing rehabilitation activities must provide a summary for the project area describing the number and percentage of:

- standard housing units;
- substandard housing units suitable for rehabilitation needing moderate and substantial repair, and
- substandard housing units, suitable for demolition.

A higher score on this criterion would likely result when:

- compared with other housing applications, the applicant has strongly documented major and serious dilapidation or deterioration, the inadequacy of the target area housing stock in responding to the demand for housing, and the existence of severe blighting conditions and revitalization needs in the target neighborhood, particularly as these conditions affect especially needy low and moderate income households such as those with low incomes, female heads of households, or elderly, handicapped or minority members; and
- in the case of housing rehabilitation proposals, the applicant has strongly documented a high percentage of substandard housing units that are suitable for rehabilitation.

The applicants considered to be facing the greatest need for housing improvements and neighborhood revitalization will receive the highest score. All other applications will be ranked against the highest scoring applicants as follows:

GREATEST NEED	150 points
ABOVE AVERAGE NEED	113 points
AVERAGE NEED	75 points
BELOW AVERAGE NEED	38 points

3. Community Efforts -- 50 points

This criterion will assess the applicant's past and current efforts to resolve its identified housing and neighborhood revitalization needs throughout the community and within the project area through local, State or federal public resources or the private sector. The applicant should outline steps taken to secure financing or other resources, and the results of those efforts.

A higher score on this criterion would likely result when:

- the local governing body has officially adopted or will adopt a housing plan and has integrated or will integrate it with its local planning process;
- the applicant has established or will establish planning and zoning policies which facilitate the construction of affordable, energy-efficient housing for low and moderate income families;
- the applicant has documented actual production of housing units for low and moderate income families by a local housing authority or a local, State or federally supported housing sponsor;
- the applicant has offered or will offer financial inducements to the developers of low and moderate income housing;

- the applicant has undertaken or will undertake efforts in the community and/or project area to address the identified housing and neighborhood revitalization needs such as improvements to public facilities; aggressive code enforcement and demolition of unsafe vacant, substandard buildings; community or neighborhood "clean-up," "paint-up," "fix-up" campaigns; or establishment of tax incentives for building remodeling authorized under Montana law (Section 15-24-1501, MCA);
- the applicant has demonstrated that the level of local financial participation in the proposed project is the maximum that can reasonably be expected; and
- if program income from previous grants for housing rehabilitation has been received, the applicant has documented the successful use of the revolving loan funds to further address the housing needs of low and moderate income households.

Each application will receive points depending upon its response to the criterion:

BEST	50	points
ABOVE AVERAGE	38	points
AVERAGE	25	points
BELOW AVERAGE	13	points

4. Project Strategy -- 100 points

This criterion will consider the degree to which the applicant has developed a complete, well reasoned, appropriate and achievable strategy for dealing with identified housing and neighborhood revitalization needs within the project area, taking into consideration all available public and private resources and local capacity. This criterion will also assess the extent to which the proposed activities represent the applicant's most effective option for achieving maximum impact on identified needs, given the complexity of the needs and the funds available for the proposed project.

A higher score on this criterion would be likely when:

- the applicant has designed a comprehensive strategy for dealing with the housing needs of all tenure types, income categories, and especially needy groups, as well as substandard housing units owned or occupied by households ineligible for CDBG assistance;
- the applicant has clearly targeted a geographic area of high need, in terms of concentrations of low and moderate income and substandard housing suitable for rehabilitation, which offers a potential for generating considerable recognizable impact;
- all project activities support and implement a comprehensive community housing and neighborhood revitalization strategy;

- the applicant is coordinating all available public and private resources with CDBG activities to respond to the identified needs in order to achieve maximum impact from limited CDBG funds and benefit to low and moderate income persons;
- the applicant will undertake specific local actions to address identified problems in the project area through administrative actions such as code enforcement or through programming of improvements to public facilities, such as street or sidewalk repairs;
- the applicant will provide related housing services to the community in support of the housing and neighborhood revitalization project such as housing rehabilitation counseling, provision of rehabilitation workshops for non-CDBG eligible residents, or outreach or referral programs to publicize non-CDBG options for financing home improvements;
- the proposed financing terms and techniques, as well as proposed use of any program income expected to be generated, are appropriate to the income levels of community residents and consistent with prudent management of scarce public funds;
- the proposed project is feasible, given the level of identified needs, time schedule, and available resources. (For example: the number of units proposed to be assisted in a rehabilitation project is reasonable, given the requested level of funding; if acquisition and demolition are proposed, there are units available to accommodate the relocation of all displaced households; or if land assemblage is proposed, firm commitments have been obtained for new construction on the sites acquired); and
- the type of housing units and cost per unit to be assisted, as well as the extent of improvements proposed, are reasonable when compared with other applicants which propose similar activities.

Each application will receive points depending upon its response to the criterion:

BEST	100 points
ABOVE AVERAGE	75 points
AVERAGE	50 points
BELOW AVERAGE	25 points

5. Project Impact -- 150 points

This criterion will consider the:

- degree to which the identified needs will be met by the proposed project;

- degree to which any proposed secondary CDBG activities are clearly complementary to and in support of the principal housing activity and enhance the overall impact of the project in resolving the identified problem; and
- applicant's efforts to avoid adverse impacts from the project.

A higher score on this criterion would be likely when:

- a housing rehabilitation project would rehabilitate a higher proportion of substandard units in a project area than competing applications which address only a small portion of the substandard units (housing rehabilitation goals considered unfeasible or unrealistic will be discounted);
- the applicant is dealing with as much of the identified problem as reasonable within funding constraints;
- the proposed activities will directly relate to and significantly address with substantial benefit, the identified needs of especially needy households;
- the project will expand housing opportunity and choice for low and moderate income persons through the provision of housing which was not available previously such as facilitating the construction of new housing or assisting in the conversion of unused commercial space to residential use;
- the project is supported by local private investments with firm commitments from developers and financial institutions and, therefore, a high likelihood exists that additional housing units will be created or rehabilitated;
- the applicant will avoid adverse impact on the environment, including historic resources, and avoid adverse impact from displacement of individuals which may result from the proposed activities; and
- for projects involving improvements to public facilities as part of a coordinated housing and neighborhood revitalization project, the applicant has:
 - . taken steps to assure that low and moderate income households will not be adversely affected financially by increased assessments or service charges; and
 - . described how the public facilities activities will relate to a local capital improvements plan (if applicable), tie in to the surrounding and overall infrastructure system, and have a substantial impact on the identified deficiencies.

Each application will receive points depending upon its response to the criterion:

BEST	150	points
ABOVE AVERAGE	113	points
AVERAGE	75	points
BELOW AVERAGE	38	points

6. Benefit to Low and Moderate Income -- 200 points

This ranking criterion assesses the extent to which CDBG funds will be used to benefit low and moderate income persons by dividing the total amount of non-administrative CDBG funds proposed to be used to benefit low and moderate income households by the total amount of non-administrative CDBG funds requested by the applicant.

Applicants will be assigned two points for each percentage of benefit to low and moderate income persons. Fractional percentages will be rounded to the nearest whole number. Documentation for benefit to low and moderate income persons must be consistent with the Department of Commerce guidelines contained in Appendix F.

7. Project Management -- 75 points

This criterion will assess the soundness and appropriateness of the applicant's plan for assuring proper management of the CDBG project including financial management of grant funds, compliance with State and federal requirements, and effective day-to-day implementation of project activities.

A higher score on this criterion would likely result when:

- the applicant has thoroughly considered the administrative and technical issues involved in the proposed housing project and has developed appropriate (and perhaps innovative) responses to them. For instance, for a housing rehabilitation project, the applicant has defined the mechanisms and procedures for conducting rehabilitation loan and/or grant negotiations with homeowners, related linkages with area financial institutions, rehabilitation cost estimates, bidding and contracting procedures, construction supervision and inspections, building code inspections, energy audits, coordination with other related programs (weatherization or rental rehabilitation), and maintenance training for homeowners;
- the applicant has considered staffing needs for day-to-day project management and financial management and has developed preliminary position descriptions, including qualifications and experience levels, or has identified the persons to whom these tasks will be assigned;
- all budgeted costs are clearly reasonable and well supported;
- if other funding sources or organizations will be involved in the project, the applicant has described how these will be coordinated and directed;
- the applicant has demonstrated adequate pre-planning to ensure that project activities can commence quickly if funds are awarded and that firm commitments exist for any other public or private resources to be involved in the project;

- if income is to be generated by CDBG-funded activities, a plan has been developed for the use of that money, and a mechanism has been established for its administration. (If a revolving loan fund is to be established with project income, procedures must be outlined covering loan application processing, approval, negotiation, pricing, packaging, servicing, etc.);
- if existing structures are to be rehabilitated for multiple family housing or if activities in support of new housing construction are proposed, the applicant has provided additional applicable information such as preliminary site and/or floor plans, and has addressed issues such as compliance with handicapped access, prevailing wage rates and local zoning requirements; and
- if a previous grantee under the State CDBG Program, performance of project management responsibilities has been above average or superior.

Each application will receive points depending upon its response to the criterion:

BEST	75 points
ABOVE AVERAGE	56 points
AVERAGE	38 points
BELOW AVERAGE	19 points

VII. SPECIAL REQUIREMENTS AND RANKING
CRITERIA FOR PUBLIC FACILITIES PROJECTS

SPECIAL REQUIREMENTS

In addition to the general requirements which are applicable to all CDBG applicants, applicants proposing a CDBG Public Facility project must meet the following special requirements in order to be eligible for an award of CDBG funds:

1. Public Facilities Plan

The applicant must submit a short (5 page maximum) description of its overall plan for meeting its public facilities needs. The description should cover, at a minimum, the following elements:

Needs

What are the community's overall problems with or needs for public facilities? What priorities exist among these needs or problems?

Goals

What overall goals is the community trying to achieve through its public facilities plan? (Not just that activity for which CDBG funding is sought.)

Resources

What financial and technical resources are available to the community to implement its public facilities plan?

Strategy

What strategy is the community following to meet its public facilities needs? What time line has been established for providing the various public facilities identified as priorities?

Results

What projects has the community already undertaken to respond to its community facility needs or to implement its public facilities plan? What results were achieved?

Note: It is not necessary that the applicant follow the above format in describing its plan for responding to local public facilities needs. The description may combine or reorder the description of these elements, as long as all are addressed.

The following are some possible topics the applicant may wish to consider in preparing responses to the required plan elements. The examples given for each of the elements are merely suggestive of possible responses and should not be considered to be an exhaustive listing of desirable plan elements.

Goals

Goals could include issues such as providing a healthful water supply or sewage disposal or upgrade public facilities in support of a neighborhood revitalization effort. The list of the State's CDBG objectives for Public Facilities provides some examples which could be adapted for local goals. (See pages 14 - 16.)

Resources

Resources could consider a wide variety of financial and technical resources potentially available to the community to implement its public facilities plan. For example, what local revenue sources are available to help finance each of the needed facilities? What other funding sources are available from the state and federal governments to fund each of the community's priorities? Have all potential sources been contacted? What must be done to access those agencies' funds? What sources are most appropriate to assist with the types of projects considered priorities?

What resources for training or technical assistance are available to the community? Is the community's staff capable of maintaining existing or proposed services or facilities? If not, what training should be provided?

Strategy

Strategy might include a description of the community's overall strategy for responding to public facilities needs. For example, what are the community's priorities for dealing with local public facility needs? What are "needs" and which are "wants"? What projects could provide beneficial secondary benefits, such as encouraging economic development, new housing construction or revitalizing the local business district or a residential neighborhood, that might justify giving them higher priority? Has the proposed schedule for completion of the facilities been integrated with the local budget process and does it assure coordination and sequential development of related facilities or capital improvements?

Results

Results might include a discussion of the projects the community has already undertaken or completed to respond to its public facilities plan. What sources of funding were used (local, state, federal)? What other actions has the community taken to maintain its existing facilities or to meet its needs for replacing or constructing new or improved public facilities? What results were achieved?

Four publications available from the Department of Commerce, Community Development Division, may offer useful background information for communities which need to prepare a public facilities plan:

- A Handbook: Capital Facilities Scheduling and Financing;
- Financing Community Water and Sewer Systems in Montana;
- Planning and Developing Community Water and Sewer Systems; and
- Special Improvement District Handbook.

2. Preliminary Engineering or Construction Report

Applicants for public facility projects must provide a preliminary engineering or construction report which is sufficiently detailed to describe the scope of the problem to be addressed as well as the components of and estimated costs for the proposed facility or improvements. The report should describe the technical alternatives considered to deal with the identified problem, the cost projections for each, and the rationale for the selection of the proposed alternative.

Any special features in the project area which will result in an unusual facilities design or a costly design (e.g. lack of right-of-way, topography) should be described. Applicants should also indicate the sources of cost estimates for each activity.

3. Maintenance and Operation Plan

Applicants must provide a description of their plan to technically and financially maintain the proposed public facility project, or the total system of which the project is a component, over the long term after construction.

4. Assessments for Public Improvements

The Housing and Urban-Rural Recovery Act of 1983 requires each applicant for CDBG funds to certify that it:

- will not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - (a) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or,

- (b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause (a), above.

The new certification makes explicit a long-standing HUD policy that was incorporated in the 1983 Montana CDBG guidelines which prohibits a local government from imposing special assessments to recover that portion of a public facility project that was funded with CDBG funds. Grantees may, however, levy assessments to recover the non-CDBG portion of a jointly-funded project under the following conditions:

- if the property assessed is not owned and occupied by a low or moderate income household;
- when the property assessed is owned and occupied by a low or moderate income household if CDBG funds are used to pay the assessment on behalf of such households; or
- when the property assessed is owned and occupied by a moderate income household if the grantee specially certifies that it does not have sufficient CDBG funds to pay the assessment on behalf of all moderate income owner-occupants.

The same limitations that apply to special assessments also apply to any fees charged to low/moderate owner occupants as a condition of obtaining access to a public facility (e.g. tap-in fees or hook-up charges for connecting to public water or sewer lines).

According to current HUD regulations (see page 43559 in Appendix B):

- the term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties.

Pages 15 and 16 of Appendix D provide additional HUD guidance on this new requirement.

According to HUD, this new provision will apply to public facilities financed with assessments through a special improvement district or through the use of hook-up charges or tap-in fees. The provision will not apply to facilities financed through the issuance of revenue bonds.

As an example of how the new requirement could operate:

- if a community intends to finance a public facility project through the creation of a special improvement district and is requesting CDBG funds to assist it, the community would be required to use any CDBG funds awarded to it to pay the assessments for low and moderate income households;
- if the community determines that the CDBG grant ceiling is not high enough to allow it to pay assessments for all low and moderate income it would certify that fact to the Department of Commerce; and in this event, either:
 - request sufficient CDBG funds to pay all assessments for low income households only, or
 - request the entire grant amount available, use the funds to pay for all low income households and distribute the balance remaining among moderate income households, by prorating the amount of CDBG assistance to the amount of household income.

RANKING CRITERIA

Public facility applications will be evaluated according to the following criteria and may be assigned up to a maximum of 800 points.

1. Rationale for selection of the project and project strategy -- 125 points.

This criterion will consider the thoroughness of the applicant's:

- needs assessment process;
- citizen participation efforts, especially involving low and moderate income residents;
- public facilities or capital improvements plan;
- the relationship of the proposed project to the needs assessment and the public facilities plan; and
- the rationale for selection of the project.

This criterion will also consider:

- the degree to which the applicant has developed a complete, well reasoned, appropriate and achievable strategy for dealing with its public facility needs; and
- the degree to which the needs of low and moderate income residents have been considered by the applicant and how the proposed project attempts to assure maximum, feasible benefits to low and moderate income persons.

A higher score on this criterion would likely result when:

- the applicant has assessed its public facility needs, including the needs of especially needy households such as those with lower incomes, and has identified and documented its deficiencies and established priorities for dealing with them;
- the applicant has reviewed its alternatives for addressing its needs, taking into consideration all local, State and federal sources and has developed a thorough and achievable long-term plan with step-by-step actions necessary to respond to local needs;
- there is evidence of active citizen participation, especially low and moderate income residents, in the development of the community needs assessment, the public facilities plan, and in the selection of the CDBG project and project area;
- the proposed CDBG project is an integral part of the capital improvements program or public facilities plan and is consistent with the goals and needs set out in it;
- the local governing body has officially adopted a public facilities plan or a capital improvements program and has integrated it with its local budget planning and adoption process;
- the applicant has described the alternatives considered before selecting the proposed option and has developed a complete, well-reasoned and achievable proposal for dealing with the identified public facility need; and
- the applicant has considered the financial impact which would be imposed on low and moderate income households as a result of project activities such as increased service rates, hook-up charges, or tax assessments and has proposed administratively sound, cost-effective means of minimizing adverse financial impacts or maximizing benefits such as establishing a metered water system to allocate costs on the basis of use or payment of assessments, hook-up fees or water meter installation charges for low and moderate income households.

Each application will receive points depending upon its response to the criterion:

BEST	125	points
ABOVE AVERAGE	94	points
AVERAGE	63	points
BELOW AVERAGE	31	points

2. Need for Project Activities -- 125 points

The need for public facilities or services generally results from the existence of conditions which are detrimental to the public's health, safety or general welfare. In documenting the need for the proposed CDBG project, applicants should address, as appropriate:

- the degree to which the public facilities problem to be addressed with CDBG funds affects the public's health and safety, who is affected, and how;
- the immediacy of the public facilities problem to be addressed with CDBG funds including the cause of the problem, how long the problem has existed, and/or how often it has reoccurred; and
- whether the proposed activities to be addressed with CDBG funds are necessary to comply with court orders or State or federal regulations.

Priority will be given to projects proposing CDBG-funded activities which are designed to eliminate serious and immediate threats to the public's health or safety. In order to document that such a condition exists, applicants should submit written verification by a public or private agency other than the applicant (a state-wide agency, if possible) that existing conditions pose a threat to the health or welfare of the community or targeted population group.

The degree of the threat to the public's health or safety will be assessed by using existing criteria or recommendations of other appropriate public or private agencies, whenever possible. When necessary, the Department will seek technical review by appropriate agencies to evaluate proposals in terms of the severity and immediacy of the threat to the public health and safety. The Montana Department of Health and Environmental Sciences will be asked to review all public facility projects involving water, sewer or solid waste and to rank according to the four levels below.

A higher score on this criterion would likely result when the applicant has thoroughly documented through technical reports and public or private agency comments that:

- a serious deficiency exists in a community public facility or service (or that the community lacks the facility or service entirely);
- circumstances clearly attributable to the deficiency have occurred such as serious illness, disease outbreak, substantial property loss or serious environmental pollution;
- the entire community or a substantial portion of the residents of the community are seriously affected by the deficiency;
- the problem is existing, continual and chronic as opposed to occasional, sporadic or probable; and
- CDBG funds will be utilized to address the most serious needs facing the community with any lower priority activities to be financed with non-CDBG resources.

The proposed activities to be addressed with CDBG funds will be assessed for each applicant. Applicants proposing CDBG-funded activities considered to be addressing the most severe and immediate

threat to public health or safety will receive the highest score. All other applications will be ranked against the highest scoring applicants as follows:

MOST SEVERE AND IMMEDIATE	125	points
ABOVE AVERAGE	94	points
AVERAGE	63	points
BELOW AVERAGE	31	points

3. Community Efforts -- 50 points

This criterion will assess the applicant's past efforts to resolve the problem with local resources and current efforts to secure alternative or additional funds from appropriate state or federal sources to finance the proposed project.

A higher score on this criterion would likely result when the applicant:

- demonstrates substantial past efforts to deal with the problem through non-monetary efforts or with local financial resources by raising taxes or user charges or altering local fee schedules to the maximum reasonable extent, considering local financial constraints; and
- has made every reasonable effort to thoroughly seek out and secure alternative or additional funds from all appropriate state or federal agencies to finance or assist in the financing of the proposed project. The applicant must be able to provide evidence of application to the potential state or federal funding sources and serious efforts to meet any applicable requirements of the agency or program to secure the commitment of alternative or additional funds.

Each application will receive points depending upon its response to the criterion:

BEST	50	points
ABOVE AVERAGE	38	points
AVERAGE	25	points
BELOW AVERAGE	13	points

4. Appropriateness of the Technical Design -- 125 points

This factor will consider the appropriateness and cost-effectiveness of the technical design proposed to respond to the identified problem. This factor will also consider the degree to which the project thoroughly addresses the problem and provides a long-term solution. When necessary, the Department will seek technical review by appropriate agencies. The Montana Department of Health and Environmental Sciences will be asked to review all public facility proposals involving water, sewer, or solid waste activities and to recommend a ranking score for each.

A higher score on this factor would likely result when the applicant has clearly demonstrated that:

- the technical design for the project represents the most efficient, appropriate, and cost-effective option for resolving the local public facility need, considering the size and resources of the community, the complexity of the problems addressed, and the cost of the project;
- the projected costs for the budgeted technical activities for resolving the problem are reasonable; and
- the proposed facility or service would provide a permanent or reasonably long-term solution or would substantially alleviate the identified need. A project would rank lower if it addressed only a portion of the need or there was no evidence of adequate resources to solve any remaining problem or closely related problems.

Each application will receive points depending upon its response to the criterion:

BEST	125	points
ABOVE AVERAGE	94	points
AVERAGE	63	points
BELOW AVERAGE	31	points

5. Maintenance and Operation -- 50 points

This factor will consider the soundness and thoroughness of the applicant's long-term plan for financial and physical maintenance and operation of the facility or the overall system, of which the project may be a component. The Montana Department of Health and Environmental Sciences will be asked to review all public facility proposals involving water, sewer, or solid waste activities and to recommend a ranking score for each.

A higher score on this factor will likely result when:

- the applicant has developed a sound plan to assure long-term physical and financial maintenance of all the community's public facilities, as well as the proposed facility or system, including provision of adequate training for maintenance staff;
- the applicant has demonstrated that reasonable maintenance and operation costs will be supported by residents over the long-term; and
- if there are indications that the problem is not of recent origin or has developed because of inadequate maintenance and operation practices, the applicant has thoroughly explained the circumstances and described the actions that will be taken in the future to assure that the problem will not reoccur.

Each application will receive points depending upon its response to the criterion:

BEST	50	points
ABOVE AVERAGE	38	points
AVERAGE	25	points
BELOW AVERAGE	13	points

6. Need for CDBG Assistance -- 100 points

This criterion will assess the degree of the applicant's need for CDBG assistance to finance the proposed project in relation to its overall financial capability, including maximum millage, outstanding indebtedness, bonding capacity, and, if applicable, the existing and proposed rate structure for the service.

At minimum, each applicant should provide the following information for the current fiscal year (as applicable for the type of project and financing mechanism proposed):

1. Taxable valuation of the applicant;
2. Number of mills levied within the project area by:
 - a. the applicant (general purpose local government),
 - b. the local school district, and
 - c. any other taxing jurisdictions applicable to the project area;
3. If applicable to the public facility project, the:
 - a. existing rate for the service,
 - b. anticipated rate for the service without CDBG assistance, and
 - c. anticipated rate for the service with CDBG assistance; and
4. Total bonded indebtedness of:
 - a. the city or town, if a municipality,
 - b. the county, if a county-wide project, or
 - c. the project area, if the project area is less than county-wide such as a sewer, water or solid waste district.

The applicant should discuss constraints such as existing mill levies set at the legal ceiling, outstanding indebtedness at or approaching the limits set by state law, bonding capacity insufficient to fund the entire project, continued past increases in service rates and/or existing or proposed service rates and/or existing or proposed service rates well above average.

A higher score on this factor would likely result when the applicant provides clear supporting documentation to show that all avenues to fund the proposed project with local resources have been exhausted, that the proposed project could not reasonably be accomplished without CDBG assistance, and that the proposed level of local financial participation in the project is the maximum that can reasonably be expected.

Each application will receive points depending upon its response to the criterion:

BEST	100	points
ABOVE AVERAGE	75	points
AVERAGE	50	points
BELOW AVERAGE	25	points

7. Overall Benefit to Low and Moderate Income Persons -- 150 points

This ranking criterion assesses the extent to which CDBG funds will be used to benefit low and moderate income persons by dividing the total amount of non-administrative CDBG funds proposed to be used to benefit low and moderate income persons by the total amount of non-administrative CDBG funds requested by the applicant.

Applicants will be assigned three points for each documented percentage of benefit to low and moderate income persons above fifty percent. Fractional percentages will be rounded to the nearest whole number. Documentation for benefit to low and moderate income must be consistent with the Department of Commerce guidelines contained in Appendix F.

8. Project Management -- 75 points

This criterion will assess the soundness and appropriateness of the applicant's plan for assuring proper short and long-term management of the CDBG project, including financial management of grant funds, compliance with state and federal requirements, and effective implementation of project activities. When an applicant proposes the "targeting" of financial assistance to low or moderate income households, such as payment of assessments or hook-up charges for a water or sewer system, this factor will also consider whether the financial and administrative mechanisms proposed are cost-effective, consistent with the applicant's capacity, and appropriate to the normal term of a CDBG project.

A higher score on this criterion would likely result when:

- the applicant has demonstrated that the activities are feasible and achievable, taking into consideration the size and resources of the community and the budget and work schedule proposed, and can be conducted consistent with applicable State and federal requirements;
- if targeting of financial assistance to low and moderate income persons is proposed, the applicant has developed a sound and cost-effective administrative mechanism for targeting CDBG funds to low and moderate income persons; has provided thorough documentation in support of any claims of benefit to low and moderate income persons; and can assure completion and an assessment of the grantee's performance within the term of the grant; and is appropriate and feasible given the administrative resources of the applicant;
- the applicant has demonstrated adequate pre-planning to ensure that project activities can commence quickly if funds are awarded and that firm commitments exist for any other resources to be involved in the project;
- if more than a single funding source or organization is involved, the applicant has described how these will be coordinated and directed;

- the applicant has incorporated features in the overall project design to assure that sound management concepts are followed for the long-term. For example, when proposing major improvements to a community water system, the applicant will institute water metering to encourage conservation and a more equitable assignment of user costs;
- the applicant has addressed environmental concerns or is in the process of addressing them and there appear to be no problems, or appropriate resolutions for identified problems have been described;
- the applicant has identified (or developed position descriptions for) the person or persons who will be responsible for day-to-day project management and financial management or has identified any services which will need to be contracted for to carry out the project;
- the applicant has developed an adequate plan for the use and administration of any program income which will result from the project; and
- if a previous grantee under the State CDEG Program, performance of project management responsibilities has been above average or superior.

Each application will receive points depending upon its response to the criterion:

BEST	75 points
ABOVE AVERAGE	56 points
AVERAGE	38 points
BELOW AVERAGE	19 points

VIII. APPLICATION DEADLINES, SPECIAL REQUIREMENTS AND
RANKING CRITERIA FOR ECONOMIC DEVELOPMENT PROJECTS

APPLICATION DEADLINES

Single purpose applications for economic development will be accepted on September 16, 1985, and again on March 14, 1986.

SPECIAL REQUIREMENTS

In addition to the general requirements which are applicable to all CDBG projects, listed on pages 20 through 33, applicants for an economic development grant must meet the following special requirements:

1. Economic Development Plan

The applicant must submit a short (5 page maximum) description of its plan for encouraging local economic development. The description should include, at a minimum, a discussion of the following elements:

Need

What are the community's underlying economic problems?

Goals

What is the community attempting to accomplish through its overall economic development program (not just that activity for which CDBG funding is sought)?

Resources

What public and private resources, both financial and technical, does the community have available to it to help carry out its economic development program?

Strategy

What strategy is the community using to pursue its economic development goals?

Results

What actions has the community already undertaken to implement its economic development plan? What sources of funding were used? What were the results?

Note: It is not necessary that an applicant follow the above format in describing its plan for encouraging local economic development. The description may combine or reorder the description of these elements, as long as all are addressed.

The following are some possible topics the applicant may wish to consider in preparing a response to each of the required plan elements. The examples given for each of the elements are merely suggestive of possible responses and should not be considered to be an exhaustive listing of desirable plan elements.

Need

Need factors might include recent major industry shutdowns or extended layoffs, substantial increases in population without a corresponding increase in job opportunities, substantial population decreases due to lack of available or appropriate job opportunities, a lack of industrial diversification, the existence of large numbers of workers in the area with obsolete skills or skills for which there is no current demand, or other problems unique to the applicant's community.

Goals

Goals might include trying to preserve existing businesses or industries, attempting to encourage community growth, attempting to foster industrial diversification, revitalizing the central business district, or creating complementary industries which would provide jobs in the off-season for workers now only seasonally employed.

Resources

Resources may be of a wide variety. For example, does the community have a local development corporation or similar body? Has any agency or organization assigned staff member(s) to work on economic development activities for a major portion of their time? Has the financial community demonstrated its willingness to participate in development activities? Is there an adequate available labor force to meet the demands of new or expanding businesses and industries? Does the community have some unique development advantages, e.g., location, transportation facilities, industrial park or other plant sites, available raw materials, abundant power supplies, employee training capabilities, a locally-administered revolving loan fund to assist growing businesses or industries, or technical assistance programs to help business persons deal with marketing, management, or financial planning problems?

Strategy

Strategy might include a description of the specific activities that have been identified as components of the community's strategy for encouraging local economic development. For example, which has been assigned first, second, and third priority? How much will each cost? What funding sources have been identified for each? What can or will the local government do to support those activities?

Results

Results might include a discussion of actions the community has taken to encourage development. For example, has it offered property tax reductions to new or expanding industries? Has it passed the allowable one-mill levy for economic development, formed a local development corporation, or prepared industrial or tourism promotion brochures or films? What results have been achieved? How many new jobs have been created or existing jobs retained? How many new firms have begun operations in the community? How many existing firms have undertaken expansion activities?

2. Benefit to Low and Moderate Income Persons

In order to be eligible for CDBG assistance, the applicant must demonstrate that a minimum of 51% of the jobs to be created or retained by an economic development project will be initially available for low and moderate income persons or be made available to low and moderate income persons through special training planned as part of the project.

The Department will use full-time annual equivalent positions as the basis for ranking. If part-time or seasonal employment is proposed, the application must include an estimate of the number of hours to be worked each week or the number of months to be worked each year for each proposed position.

3. Hiring and Training Plan

Applicants must propose methods to ensure preferential recruitment, hiring, and training of local workers, particularly those of low and moderate income. In the event of grant award, the applicant's commitment to the hiring plan will be considered binding and will be incorporated in the grant agreement between the local governing body and the Department of Commerce. As part of the hiring plan, the applicant must include a three year timetable indicating the total number of persons and number of low and moderate income persons to be hired. Additionally, a description of how the results of the hiring process will be monitored for compliance with the low and moderate income benefit requirement must be included. Assistance in the development of such a plan may be obtained from the local Job Service.

Applicants should take into consideration equal opportunity and non-discrimination laws to ensure that women and minorities are not excluded from participation, denied the benefit of, or subjected to discrimination under any program or activity funded in whole or in part with CDBG funds. Successful applicants will be required to comply with equal opportunity and non-discrimination laws and regulations.

4. Business Relocation

Generally, proposals that would encourage the relocation of a business from one Montana community to another will be disqualified.

5. Leverage

Economic development projects must match non-administrative CDBG funds with new private investment in the proposed project at a minimum ratio of one to one. Private sources may include any funds from other federal or state sources that must be repaid. Existing equipment, in-kind services or costs incurred prior to grant application will not be considered as match.

6. Private Sector Commitments

Applicants must provide firm commitment letters from the private sector lenders involved in the project. Such commitments should be binding, contingent only upon receipt of CDBG funds.

Letters of commitment from firms to be assisted should be submitted with the application and must:

- be on a letterhead of the firm and signed by an official of the firm authorized to commit the organization;
- provide a clear statement of the firm's concept of the project, (i.e., the location, scope, and cost);
- specify the nature of the commitment, (e.g., amount of private commitment, amount of borrower's commitment, type and size of the project, number of jobs to be created, etc.); and
- state a willingness of the firm to sign a legally binding commitment upon grant award.

Letters of commitment from private financing institutions should also be submitted and must specify the amount and type (e.g., interim, construction financing, take out financing, etc.) of the loan being provided for the specific activity to be undertaken.

7. Public Sector Commitments

If public sector resources are to be involved in the proposed economic development project, applicants must provide written evidence of firm commitment of public funds and/or other resources. Such commitments should be binding, contingent only upon receipt of CDBG funds to the project. Evidence should include resolutions passed by the local governing body and/or a letter of commitment from other sources.

8. Need for CDBG Assistance

HUD regulations require the Department of Commerce to consider whether CDBG assistance to any for-profit entity is necessary and

appropriate to the project, including the extent of the need for assistance and the amount of assistance to be provided in relation to the public benefit that would result. Applicants must clearly substantiate that the proposed project could not be accomplished without the specific terms and conditions offered to the assisted firm.

9. Use of CDBG Funds for Economic Development Loans

No grants can be made to private sector firms. The CDBG portion of the project may include loans to the private sector with terms to be negotiated by the local government and the assisted entity subject to approval by the Department of Commerce. A description of all aspects of the proposed assistance (i.e., loan terms, security, etc.,) and the rationale for each must be included with the application.

10. Business Plan

Applicants should provide sufficient information on the entity to be assisted and the proposed use and terms of CDBG assistance to permit review by the Department of Commerce without the need to seek additional information. If these requirements do not appear appropriate to a proposed project, contact the Department prior to application for guidance. A brief business plan must be submitted with each application and must include the following:

Business Description

This would include a brief description of the company and an explanation of the products or services offered.

Management

This would include the names, titles, and resumes of each person responsible for the day-to-day operation of the business.

Market

This section would discuss the present or proposed market area and share, and/or other information which may be pertinent to assess the viability of the proposal.

Use of CDBG Funds

This section would provide a discussion of the need for (as discussed in requirements #8 and 9) and terms of the CDBG assistance including:

- Loan Terms. The terms of the loan should be consistent with the projected use of funds, and individual project needs. For example, private market terms for financing machinery and equipment are generally between 5 to 10 years. For buildings and real estate, terms generally range between 15 to 20 years. Repayments of principal, interest, or both, may be deferred up to three years.

- Loan Security. All loans must be secured with fixed assets (i.e., land, buildings, and capital equipment) and the security or collateral position must be defined.
- Interest Rates. Interest rates are negotiable but should not be less than five percent unless it can be conclusively demonstrated that a lower rate is essential to the economic viability of the project.

Financial Exhibits

This would include a completed Small Business Administration (SBA) standard application form (SBA form #4) or a Montana Economic Development Board (MEDB) Application (MEDB form #CTL-1-84) with the following attachments:

- personal balance sheet for each individual with 10 percent or more ownership in the proposed project;
- for existing businesses, a Balance Sheet, Profit and Loss Statement, and Reconciliation of Net Worth for the three most recent years of operation, and an Aging of Accounts Receivable and Payable (minimum acceptable standards will be compilation statements with full disclosure notes);
- Earning projections for three years, and a projected cash flow analysis for one year (for projects involving lease of space to other activities a ten year pro forma is required); and
- any other information which may be helpful in documenting the viability of the project.

All financial exhibits will be considered confidential, for evaluation purposes only, and will not, except as required by law, be provided to any third person, firm, corporation or public entity without the express written consent of the business.

11. Grant Ceiling

The amount of CDBG funds requested cannot exceed 50% of the amount initially available for 1985 for economic development (\$302,587 for 1985).

RANKING CRITERIA

Economic development applications will be evaluated according to the following criteria and may be assigned a maximum of 800 points. Applicants must receive a minimum of 575 points to be eligible for funding.

1. Business Plan -- 200 points

For applications involving loans to private firms, the business plan(s) will be analyzed on the basis of the:

- economic viability of the project;
- need for CDBG assistance;
- appropriateness of the proposed use of CDBG funds;
- appropriateness of the proposed terms (e.g., security, interest rate, etc.) of the CDBG loan; and
- past performance of the assisted firm or principals.

HUD regulations require the Department to "consider the extent of need of the for-profit entity of such [CDBG] assistance"... "in determining whether the assistance to the for-profit entity is necessary or appropriate...." All applications involving the loan of CDBG funds must demonstrate that without CDBG assistance the project would not be undertaken. Conversely, applicants must demonstrate that with CDBG assistance the project will be self-sustaining.

For applications where facilities are proposed that will remain the responsibility of the applicant the business plan(s) will be analyzed on the basis of the:

- level of documentation demonstrating the ability of the facility to support itself over time without additional local government support;
- need for CDBG assistance;
- appropriateness of the proposed use of CDBG funds; and
- in instances where the local government will assume an on-going subsidy of the project, the level of subsidy, effect of the subsidy on local revenues, and the anticipated long-term benefits of the project.

Applications which document a sound, well-reasoned, and viable proposal will be awarded a higher score in this category. Applications where viability may be questionable, or where the overall business plan or need for CDBG assistance is inadequately documented will receive a lower score. The CDBG ranking team may request outside assistance in evaluating this criterion.

This criterion will be ranked into the following categories:

WELL DOCUMENTED AND VIABLE	--	200 points
ABOVE AVERAGE	--	150 points
AVERAGE	--	100 points
BELOW AVERAGE	--	50 points

2. Hiring and Training Plan -- 100 points

Since the primary goal of CDBG-funded economic development grants is to increase job opportunities for local residents, particularly persons of low and moderate income, applicants must document the positive actions they propose to take to bring about the creation or saving of permanent, full-time equivalent positions for persons of low and moderate income. Applicants must provide a breakdown of jobs to be created or retained indicating the percentage which are full-time, part-time, skilled, semi-skilled, or unskilled. Applicants should provide an estimate of the number of hours to be worked each week or months to be worked each year for less than full-time positions.

Five factors will be considered under this criterion:

- the completeness, clarity and feasibility of the hiring and training plan;
- the timetable for creating jobs and hiring workers in relation to the projected growth of the business;
- the degree to which the plan responds to the needs of low and moderate income persons;
- the level of commitment to the plan offered by the recipient of the CDBG assistance; and
- whether the applicant has taken into consideration equal opportunity and non-discrimination laws to ensure and document that women and members of protected minority groups will not be excluded from participation in program benefits.

A higher score on this criterion would likely result when:

- the applicant's hiring and training plan provides clear, complete procedures for outreach, recruitment, screening, selection, training, and placement of workers which will ensure maximum access for local residents, particularly persons of low and moderate income, to jobs created or saved by the project;
- the applicant has contacted or contracted with the local Job Service or another appropriate agency to provide assistance in the implementation of the hiring plan, should the application be successful;
- attention has been given to necessary supportive services for trainees needing them;
- a complete training curriculum has been developed and all training resources identified;
- responsibility has been assigned for all phases of the program and all necessary personnel and funding commitments have been received, contingent only upon receipt of CDBG funds; and
- a written agreement to follow the plan has been obtained from each firm expected to benefit directly from the CDBG assistance.

Applications will be ranked as follows:

OUTSTANDING	--	100 points
ABOVE AVERAGE	--	75 points
AVERAGE	--	50 points
BELOW AVERAGE	--	25 points

3. Rationale for Selection of the Project -- 100 points.

This criterion will consider the thoroughness of the applicant's:

- community development needs assessment process;
- citizen participation efforts, especially involving low and moderate income residents; and
- economic development plan.

A higher score on this criterion would likely result where:

- there has been active citizen participation, especially of low and moderate income residents, in the development of the community needs assessment, the economic development plan, and in the selection of the CDBG project;
- the applicant has developed a complete, well-reasoned, appropriate, and achievable plan for dealing with its total economic development needs, taking into consideration all available public and private resources and local capacity;
- the local governing body has officially adopted the economic development plan as a matter of public policy;
- the proposed program for which CDBG funding is sought is an integral part of that plan. (It need not be the first priority item identified in the overall plan if other, more appropriate, resources are available and already being used to meet higher priority items.);
- the community has made substantial local efforts to deal with its economic development problems; and
- the proposed CDBG project is realistic and workable, and the job savings or creation expected to result from its implementation will occur within a reasonable time following the date of grant award.

Applicants will be ranked into the following categories:

OUTSTANDING	--	100 points
ABOVE AVERAGE	--	75 points
AVERAGE	--	50 points
BELOW AVERAGE	--	25 points

4. Project Impact -- 200 points

HUD regulations require the Department to consider the amount of the CDBG assistance to be provided in relation to the public benefit that would result.

This criterion will assess three factors:

-- Leverage.

In preparing its proposed program budget, the applicant is required to identify the sources and uses of funds and the amounts to be contributed by each financial source. To be eligible for consideration, an applicant must assure the participation of at least one private, non-CDBG dollar for each dollar of CDBG funds requested (a 1:1 ratio). The non-CDBG funds may come from a variety of private sources, such as new investment by a firm to be assisted, bank loans, local development corporation loans or debentures, or loans to be repaid to a state or federal loan program. Increased owner equity resulting from the proposed business expansion, existing fixed assets or investments made prior to grant application may not be counted toward this requirement. The ratio of private, non-CDBG dollars in relation to the requested CDBG funds (excluding administrative costs) will be assessed under this factor.

-- Job Creation.

This factor will be assessed by dividing the total number of permanent full-time or full-time equivalent jobs to be created or retained into the total amount of the CDBG funds requested (excluding administrative costs). This ratio will be evaluated against the type of job created, the amount of non-CDBG funds contributed to the project, and the potential for long-term growth of the assisted firm.

-- Community Impact.

This factor considers both the direct and indirect benefits the CDBG program is expected to have on the community's economy including:

- a. the size of the additional payroll expected to be generated from the jobs created or retained in relation to the size of the community;
- b. the total number of jobs created or retained in relation to the existing employment base;
- c. the amount of local property taxes generated by the construction of new facilities or preserved by retaining an existing facility as compared to the local government's existing tax base, or loss of tax base if an existing facility or parcel of land will be turned over to a government activity;
- d. whether the firm to be assisted is a primary industry (producing goods or services mainly to be sold outside the area or state, thereby importing dollars into the community and state); and
- e. the indirect effects of the activity on the surrounding community such as benefits provided to related businesses or the importance of the assisted firm to the local trade area.

A higher score on this criterion would likely result when:

- the applicant has demonstrated a high ratio of private investment in relation to CDBG dollars requested;
- the applicant has demonstrated that the level of CDBG and non-CDBG investment is appropriate and reasonable for the type of jobs to be created or retained;
- the applicant has demonstrated that the firm to be assisted has a high potential for growth and future job creation;
- economic development activity proposed would foster the creation or saving of permanent full-time employment with growth potential for persons of low to moderate income, which offers those workers opportunity for advancement; and
- the applicant has demonstrated a high level of positive economic benefit to the community.

The ranking committee will group responses into four levels.

OUTSTANDING	--	200 points
ABOVE AVERAGE	--	150 points
AVERAGE	--	100 points
BELOW AVERAGE	--	50 points

5. Percent of Jobs to Benefit Low and Moderate Income Persons -- 100 points.

To determine this score, the number of full-time annual equivalent jobs to be created or retained and made available to low and moderate income persons will be divided by the total number of jobs to be created or retained as a result of the CDBG program.

Applicants will be assigned two points for each documented percentage of benefit to low and moderate income persons over fifty percent. Fractional percentages will be recorded to the nearest whole number.

Remember: To be eligible for consideration a program must demonstrate at least 51% benefit factor for low and moderate income.

6. Project Management -- 100 Points

This criteria will assess the soundness and appropriateness of the applicant's plan for assuring proper short and long-term management of the CDBG project, including financial management of grant funds, compliance with state and federal requirements, and effective implementation of project activities, and the proposed use of any program income (i.e., loan repayments) generated by the project.

A higher score on this criterion would likely result when:

- the applicant has developed a sound plan for the use and administration of any program income which will result from the project;
- the applicant has considered the assistance agreement to be entered into between the local government and the firm to be assisted, including items such as performance standards, methods for monitoring compliance, and actions that may be taken if the assisted firm does not comply with the terms of the CDBG assistance;
- the applicant has demonstrated that the activities are feasible and achievable, taking into consideration the size and resources of the community and the budget and work schedule proposed, and can be conducted consistent with applicable State and federal requirements;
- the applicant has demonstrated adequate pre-planning to ensure that project activities can commence quickly if funds are awarded and that firm commitments exist for the other resources to be involved in the project;
- the applicant has addressed potential environmental concerns and there appear to be no significant problems; and
- the applicant has identified (or developed position descriptions for) the person or persons who will be responsible for day-to-day project management and financial management or has identified any contracted services to be utilized in carrying out the project.

Each application will receive points depending upon its response to the criterion:

OUTSTANDING	-- 100 points
ABOVE AVERAGE	-- 75 points
AVERAGE	-- 50 points
BELOW AVERAGE	-- 25 points

OVERALL SCORE

An application must receive a minimum of 575 points to be eligible for funding.

IX. SPECIAL REQUIREMENTS AND RANKING
CRITERIA FOR MULTIPURPOSE PROJECTS

SPECIAL REQUIREMENTS

In addition to the general requirements applicable to all CDBG projects, applications for a multipurpose grant must meet the following special requirements in order to be eligible for an award of CDBG funds.

1. Community Development Plan

An application for a multipurpose grant must include a summary of the applicant's community development plan. It must summarize the overall community development needs of the applicant, its coordinated strategy for meeting those needs, including its long and short term objectives. The plan must consist of the following:

Summary of Community Development Needs

The applicant must provide a narrative summary of its overall community development needs, particularly those of low and moderate income households and those households which may be especially needy such as those with lower incomes, female heads of households or minority, elderly or disabled members. The narrative must include a brief description of the major needs for economic development, housing, neighborhood or community revitalization, and community facilities and public improvements. The summary may reference material contained in the economic development plan, housing and neighborhood revitalization plan or the public facilities plan described below.

Economic Development Plan

Multipurpose applications proposing economic development activities must comply with the threshold requirements for economic development projects listed on pages 63-68, including the economic development plan.

Housing and Neighborhood Revitalization Plan

Multipurpose applications proposing housing and neighborhood revitalization activities must comply with the threshold requirements for housing and neighborhood revitalization projects set out in pages 37-43, including the housing and neighborhood revitalization plan.

Public Facility Plan

Multipurpose applications proposing public facility activities must comply with the threshold requirements for public facility projects set out in pages 51-55, including the public facilities plan.

2. Project Design Elements

Multipurpose CDBG projects must:

- address community development needs in at least two of the following categories:
 - (a) economic development;
 - (b) housing and neighborhood revitalization; or
 - (c) public facilities;
- demonstrate clearly to have been the result of a comprehensive assessment of community development needs;
- address a reasonable portion of the identified needs of low and moderate income persons within an appropriate, defined concentrated target area or areas;
- involve activities that are clearly interdependent and complementary and which must of necessity be carried out in a coordinated manner in order to provide the most appropriate solution and a recognizable and substantial impact upon the identified needs; and
- have a substantial, measurable impact within a reasonable period of time.

Multipurpose projects must be directed towards a single concentrated area or areas of high need in order to assure adequate recognizable impact. (For small communities, the most appropriate target area may be the entire community.) The Department of Commerce may make an exception to this requirement only if the applicant can demonstrate satisfactorily that the alternative proposal is a reasonable means of addressing the identified needs. Requests for an exception must be submitted 30 days prior to the due date for application.

Project activities within multi-year multipurpose project should be designed as independent components capable of achieving a significant impact upon identified community development needs during each year of the project.

3. Project Strategy

Each applicant for a multipurpose grant must describe, for each of the components of the proposed project (economic development, housing and neighborhood revitalization, or public facilities) its strategy for meeting identified needs. This description must address the activities to be carried out with CDBG and other funds during the term of the project; the timetable for the activities to be undertaken; the manner in which CDBG funded activities will be coordinated with local actions and other funding sources; and the activities proposed to improve conditions for low and moderate income persons. Most importantly, the description must clearly document how the applicant's overall strategy responds to the basic design elements for multipurpose projects set out in Section 2, above.

Areas or neighborhoods targeted for coordinated action must be identified. The applicant must discuss the rationale for the selection of the target area and why the boundaries are appropriate.

The narrative description of the applicant's Project Strategy may be consolidated with the summary of the Community Development Plan as long as the requirements for each are addressed.

RANKING CRITERIA

In ranking applications for multipurpose projects the Department of Commerce will consider two factors:

Project Factor

The overall appropriateness, soundness and impact of the entire proposed project as it relates to the needs, goals, and strategy set forth in the application; and

Activity Factor

The economic development, housing and neighborhood revitalization, or public facility activities which are proposed to be conducted as components of the project, based on the criteria established for evaluating single purpose applications for each of these categories.

PROJECT FACTOR -- 400 points

In assessing applications for multipurpose projects, the Project Factor criterion will consider not only the factors associated with the economic development, housing and neighborhood revitalization, and public facilities components of each proposed project, but also the broader issues involving the coordination and interrelationship of the components. In particular, this criterion will evaluate how the overall project responds to the basic design elements required for multipurpose projects:

- the project is the result of a comprehensive assessment of community development needs;
- the project addresses a reasonable portion of the identified needs of low and moderate income persons within an appropriate, defined concentrated target area or areas;
- the project involves activities that are clearly interdependent and complementary and which must of necessity be carried out in a coordinated manner in order to provide the most appropriate solution and a recognizable and substantial impact upon the identified needs; and
- the project will have a substantial, measurable impact within a reasonable period of time.

Each multipurpose application will receive points depending upon its response to the project factor criterion:

BEST	400 points
ABOVE AVERAGE	300 points
AVERAGE	200 points
BELLOW AVERAGE	100 points

A higher score on the project factor criterion would be likely when:

- the project clearly responds to the basic design elements required for multipurpose projects;
- the applicant has thoroughly assessed its local needs for the project categories to be addressed, including the needs of low and moderate income persons;
- the applicant has developed a project strategy which includes step-by-step actions necessary to address the identified needs in a coordinated manner;
- the proposed activities represent the applicant's most appropriate option for resolving the identified needs, considering the size and resources of the community, the complexity of the needs addressed, and the resources available for the proposed project;
- the coordination of the project activities will more effectively resolve the identified needs than would otherwise be possible through sequential single purpose projects; and
- the applicant has developed a realistic schedule for completing proposed activities in a timely manner.

ACTIVITY FACTOR -- 800 points

In addition to ranking the proposed project as a whole, the Department will evaluate the project components according to the ranking criteria established for single purpose applications for economic development, housing and neighborhood revitalization, and public facilities.

After the initial point scores for each of the applicable components have been determined they will be weighted and calculated for a final point score according to the percent of CDBG funds (excluding administration) proposed to be expended on each component.

For example, if three communities scored points as follows:

Activity	<u>Community A</u>		<u>Community B</u>		<u>Community C</u>	
	Points	% of \$ in each Category	Points	% of \$ in each Category	Points	% of \$ in each Category
Economic Development			650	85%	750	20%
Housing	775	50%			760	30%
Public Fac- ilities	700	50%	725	15%	675	50%

They would be ranked as follows:

		<u>Economic Development</u>	<u>Housing</u>	<u>Public Facilities</u>	
1st rank	Community A		$(775 \times .50)$ 387.5	$(700 \times .50)$ 350	= 737.5 points
2nd rank	Community C	$(750 \times .20)$ 150	$(760 \times .30)$ 228	$(675 \times .50)$ 337.5	= 715.5 points
3rd rank	Community B	$(650 \times .85)$ 552.5		$(725 \times .15)$ 108.75	= 661.25 points

X. PROCEDURES FOR GRANT AWARD

ANNOUNCEMENT OF RANKING RESULTS AND GRANT AWARDS

As soon as possible after the selection of applicants to receive awards is completed, the Director will notify all applicants of the final results in writing. A summary of the final ranking results will be provided to each applicant.

Funds will be tentatively allocated to the selected applications. The tentative allocation of funds does not imply approval of all activities or the budget proposed in the selected application. The proposed work program and budget may be subject to modification during subsequent contract negotiations between the applicant and the Department. The formal award of funds will be contingent upon the execution of a contract between the applicant and the Department in accordance with all applicable federal and State requirements.

RE-RANKING OF APPLICATIONS

Re-ranking may be considered in the event that an applicant tentatively selected to receive CDBG funds is unable to substantiate information contained in the application which may have been a determining factor in the ranking score received or if an applicant requests modification of any activities proposed in the original application. (See procedures under Contract Amendment, page 84.)

APPLICATION REVIEW

Department of Commerce CDBG staff will review applications with applicants on request to discuss the evaluation and ranking of their applications.

A file will be maintained for each application. After grant awards have been announced, the application files will be available for public review upon request in the offices of the Department's Community Development Division in Helena, Montana.

APPLICANT APPEAL

Appeals will be granted only on the basis of miscalculation of the arithmetic scores. In the event that the Department determines that a miscalculation of scores occurred and resulted in an application not being selected for funding that otherwise would have been selected, the Department will reserve funds from the fiscal year 1986 CDBG State allocation sufficient to fund that application. Those funds will be made available to that applicant as soon as is practicable. If any other applicant tentatively selected for fiscal year 1985 funding is unable to fulfill the conditions required to secure a final commitment of funds, the tentative grant commitment to that applicant will be withdrawn and made available to that applicant erroneously scored. The reservation of the 1986 CDBG funds would then be adjusted or cancelled, as appropriate.

XI. PROJECT START-UP PROCEDURES

AMOUNT OF GRANT AWARD

Funds will be tentatively awarded to selected applications by the Department of Commerce. The tentative award of funds does not imply approval of all activities or costs proposed in the selected application. The proposed work program and budget may be subject to modification during subsequent contract negotiations between the applicant and the Department. The Department will not grant additional funds to pay for project costs which exceed the contract grant award.

In the event a project can be completed for less than the grant amount, the difference between actual project costs and the original grant award will be reserved by the Department for reallocation under the procedures set out in these guidelines. The Department will amend the grant contract to reflect the reduced costs.

In certain circumstances excess funds may be used for an eligible activity which further enhances the contracted project. Before the Department makes a determination to allow the additional activity, the grantee must demonstrate that the activity will: clearly enhance the overall impact of the original project; provide reasonable benefits to low and moderate income persons; be completed in a timely manner; and be able to be completed with the excess funds. The grantee must have also demonstrated satisfactory progress toward completion of the original contracted project activities.

PROJECT START-UP REQUIREMENTS

Within six months of the date of the announcement of the tentative grant award by the Montana Department of Commerce, each applicant selected for CDBG funding must:

- comply with all applicable state and federal requirements for project start-up;
- execute a grant contract;
- establish with the Department of Commerce a mechanism for transfer of CDBG funds to the grantee; and
- submit an acceptable management plan and schedule for local CDBG project administration and implementation; and
- fulfill other appropriate contract terms established by the Department.

In the event that these conditions have not been met, the tentative award may be cancelled at the discretion of the Department of Commerce, and the funds re-allocated according to the State CDBG Program project ranking and grant award procedures.

No applicant which has been tentatively selected for CDBG funding may obligate or incur costs for CDBG funds until specifically authorized in writing by the Department. Funds obligated or expenses

incurred without proper authorization will be the responsibility of the grantee and cannot be reimbursed by CDBG funds at a later date. Incurring costs includes actions such as hiring staff or entering into a contract for engineering or management services or for acquisition of land.

It will take at least two months before any funds will actually be received. This delay occurs because several activities must take place in the interim. For example, the contract between the grantee and Department must be prepared, the grantee must conduct a review of environmental factors, and all the details for assuring proper management of the project and the federal funds must be finalized.

GRANT CONTRACT

After an application is tentatively selected for funding, a grant contract will be prepared. The grant contract is the legal document which governs the administration of the grant and includes the following items:

- the amount of CDBG funds to be provided;
- a detailed budget for the CDBG funds and any other funds involved in the project;
- the schedule for implementation of project activities and the scope of work to be completed; and
- the general and special terms and conditions associated with the grant.

The application as approved will become part of the grant contract.

No CDBG funds will be released to the grantee until a grant contract is fully executed. In the event that a grant contract is not executed or the applicant is unable to fulfill the terms and conditions of the contract, any costs incurred will be the responsibility of the local government and cannot be reimbursed by the Department.

COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS

It is the responsibility of all CDBG grantees to comply with all applicable federal and state laws, executive orders, and regulations affecting their projects. (These requirements are listed in Appendix E, the CDBG "Statement of Assurances.") These requirements address issues such as financial management, labor practices, environmental impacts, civil rights, fair housing, and acquisition and relocation. Compliance with these and other requirements will become specific conditions of the grant contract between the Department and the grantee.

The Department will conduct training sessions to familiarize local officials of the recipient communities with these requirements. Participation is mandatory.

COMMITMENT OF NON-CDBG RESOURCES

Grantees which will require private, or local, State or federal public resources, in addition to CDBG funds, to implement a proposed CDBG project must have completed, within six months of the date of the announcement of the tentative grant award by the Department of Commerce, all necessary arrangements to assure that those resources are available for commitment to the project. In the event that the Department is not assured that the other resources will be fully available for commitment to and participation in the project in order to guarantee timely project completion, the tentative award may be withdrawn at the Department's discretion and the funds re-allocated. The Department encourages applicants to secure firm commitments from all non-CDBG funding sources prior to submission of their CDBG application.

No CDBG funds will be released to the grantee until firm commitments are available for all non-CDBG resources to be involved in a project. No CDBG funds may be obligated or incurred until this condition is released by the Department.

PROJECT MONITORING

During the course of the local CDBG project, the Department will monitor each grantee through periodic on-site visits and written progress reports, so that any problems which might occur may be resolved as soon as possible. It is the Department's goal to assist and support grantees in complying with applicable state and federal requirements and in implementing their project activities.

Grantees will be required to maintain complete financial and program files, and to comply with program reporting requirements. Representatives of the Department, the Secretary of HUD, the HUD Inspector General, the U.S. General Accounting Office, and the Montana Legislative Auditor must be provided reasonable access to all books, accounts, records, reports and files pertaining to CDBG funded activities. Grantees must also provide citizens with reasonable access to records regarding the past use of CDBG funds.

TIMELY PROJECT COMPLETION

The grant requested, either by itself or in combination with other previously identified funding sources, must be sufficient to complete the proposed activities within a reasonable period of time, normally not more than 18 months from the date of the announcement of the tentative grant award by the Department of Commerce. The Department will consider each project separately during grant contract negotiations in order to establish a reasonable and realistic date for project completion.

The Department of Commerce reserves the right to withdraw a commitment for any CDBG funds which remain unobligated twenty-four months after the date of the announcement of the tentative grant award.

CONTRACT AMENDMENT

The Department will consider contract amendments. All grantees must request prior approval of contract amendments such as those involving new activities or alteration of the existing activities or budget or lengthening of the schedule for project implementation, as negotiated in the grant contract.

Before the Department makes a determination to allow the amendment, the grantee must clearly demonstrate that the modification is justified and will enhance the overall impact of the original project. The Department will consider each request to determine whether the modification is substantial enough to necessitate re-evaluating the project's original ranking. If warranted, the Department will analyze the proposed modification and its impact on the scores originally assigned the application.

Amendments will not be approved which would materially alter the circumstances under which the grant was originally ranked and selected.

The Department will require that a public hearing with reasonable notice be conducted by the grantee if the proposed amendment is determined to be a substantial change in the project activities proposed in the original application for CDBG funds.

APPENDICES

APPENDIX A

SUMMARY OF FISCAL YEAR 1984 GRANT AWARDS

The Housing and Urban-Rural Recovery Act of 1983 requires that the State's CDBG guidelines include:

1. a description of the use of funds under the previous CDBG allocation;
2. an assessment of the relationship of the use of CDBG funds to the State's community development objectives; and
3. an assessment of the relationship of the use of the CDBG funds to the three primary national objectives of the Housing and Community Development Act:
 - A. to benefit low and moderate income families;
 - B. to aid in the prevention or elimination of slums or blight; and
 - C. to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

In responding to this new requirement, the Department of Commerce has prepared a summary of each of the CDBG awards made in 1984, including a listing of the State and national CDBG objective(s) met by the project. The number noted for the State objectives which each project responds to corresponds to the numbers for the State objectives listed on pages 10-13 of these guidelines.

SINGLE PURPOSE GRANTS

ECONOMIC DEVELOPMENT CATEGORY

NAME OF APPLICANT: City of Belgrade
CDBG AMOUNT: \$210,500
OTHER FUNDS: \$350,000 Montana Economic Development
Board
Industrial Revenue Bonds
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 85%

PROJECT DESCRIPTION: This economic development project will assist a small but growing manufacturing firm, the Butler Creek Corporation, in constructing a new facility in the City of Belgrade. Butler Creek, which manufactures sporting goods and photo supplies for world-wide distribution, will employ 27 persons. Twenty-three of these jobs will be new and made available to persons of low to moderate income. The City of Belgrade will provide a loan to the firm which will be repaid directly to the City and deposited into a revolving loan fund. This fund will be administered by a local Economic Development Corporation and used to stimulate future economic development.

STATE OBJECTIVES: 2, 3, 4, 5, 6, 9, 10, 12, 13, and 15
NATIONAL OBJECTIVE: Benefit to Low and Moderate Income
(LMI) Persons

NAME OF APPLICANT: Lewis and Clark County
CDBG AMOUNT: \$299,437
OTHER FUNDS: Approximately \$744,000 private equity,
and
\$6,000,000 Industrial Revenue Bonds
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 71%

PROJECT DESCRIPTION: This economic development project will provide partial funding for a new Holiday Inn Hotel in Helena. This facility will contain 150 rooms, a restaurant, lounge, and an indoor recreation center. The new complex will employ approximately 133 persons. Of these jobs, 88 will be made available to persons of low to moderate income. Lewis and Clark County will provide a low interest loan to the developers of this complex to be repaid directly to the county.

STATE OBJECTIVES: 2 through 5, 7, 9 through 12, 13 and 15
NATIONAL OBJECTIVES: Benefit to LMI Persons

HOUSING AND NEIGHBORHOOD REVITALIZATION CATEGORY

NAME OF APPLICANT: City of Bozeman
CDBG AMOUNT: \$500,000
OTHER PUBLIC FUNDS: \$148,600 (\$120,000 HUD Rental Rehabilitation,
\$28,600 Human Resources Development Council)
PRIVATE FUNDS: \$16,500 (donations)
TOTAL PROJECT COST: \$665,100
PERCENT BENEFIT TO LOW AND MODERATE INCOME (LMI): 95%

PROJECT DESCRIPTION: This neighborhood revitalization project involves a target area on the north side of city with 74% LMI, 77% substandard housing, 65% rental units, and 693 households. The project will involve the rehabilitation of 34 rental units and 10 owner units, using funds from CDBG, HUD Rental Rehabilitation, and HRDC. It is projected to generate approximately \$400,000 in program income over the next ten years. The project also involves replacement of water lines and installation of fire hydrants in an area that does not have sufficient water pressure for hydrants. It will also provide handicap access to the Beall Park Community Building, which is being renovated through private funds.

STATE OBJECTIVES: 16, 25, 6 and 9
NATIONAL OBJECTIVES: Benefit to LMI Persons

NAME OF APPLICANT: Town of Lodge Grass
CDBG AMOUNT: \$500,000
OTHER PUBLIC FUNDS: \$25,000 (\$10,000 DOE weatherization,
\$15,000 Crow Tribe CDBG)
TOTAL PROJECT COST: \$525,000
PERCENT BENEFIT TO LOW AND MODERATE INCOME (LMI): 100%

PROJECT DESCRIPTION: This is a community-wide project where 73% of the total population of 109 households is LMI, 85% of housing units are substandard, including many which are suitable for demolition and/or vacant, and a high percentage of the population includes minority, elderly, large family and female-headed households. The project will involve rehabilitation of 40 housing units, including provision of at least six new rental units through adaptive reuse of vacant structures, and will generate a modest amount of program income. Finally, the project involves demolition of eight structures.

STATE OBJECTIVES: 1 through 12, 16 through 24
NATIONAL OBJECTIVES: Benefit to LMI Persons

NAME OF APPLICANT: City of Missoula
 CDBG AMOUNT: \$500,000
 OTHER PUBLIC FUNDS: \$224,000 (\$24,000 local, \$200,000
 program income)
 PRIVATE FUNDS: \$1,200,000 (\$200,000 donated land,
 \$1,000,000 construction financing)
 TOTAL PROJECT COST: \$1,924,000
 PERCENT BENEFIT TO LOW
 AND MODERATE INCOME (LMI): 100%

PROJECT DESCRIPTION: This project will revitalize the Shady Grove area in Missoula. The area is a designated blighted area which includes 48 households, 100% of whom are LMI. Ninety percent of the units are substandard; 31 of the 33 permanent units are suitable for demolition. The project will involve acquisition of the over three acre site, relocation of current residents to safe, decent and sanitary housing, and clearance of the entire site. At least 30 townhouses will be constructed and sold to low to moderate income families at subsidized interest rates. The site will be acquired at a below market rate, and site preparation and improvements will be financed through local funds and program income generated from previous CDBG grants. Construction financing is being made available from local financial institutions; mortgage financing will be sought through the Montana Board of Housing. Program income from previous grants will be used to subsidize interest rates for lower income purchasers.

STATE OBJECTIVES: 17, 19
 NATIONAL OBJECTIVE: Benefit to LMI Persons and Elimination
 of Slums and Blight

PUBLIC FACILITIES CATEGORY

NAME OF APPLICANT: Flathead County (for Martin City)
 CDBG AMOUNT AWARDED: \$500,000
 OTHER PUBLIC FUNDS: \$371,170
 TOTAL PROJECT COST: \$871,170
 PERCENT BENEFIT TO LOW
 AND MODERATE INCOME (LMI): 73%

PROJECT DESCRIPTION: This project will assist the 66 families residing in the unincorporated community of Martin City by completely replacing the substandard, failing community water system to remedy a situation considered an extremely serious threat to public health. The original system was constructed to meet the short term needs of workers during the construction of Hungry Horse Dam. In 1981, the community formed a water district and purchased the system from private owners. The community has been ordered to boil its drinking water by the Montana Department of Health and Environmental Services until the system is upgraded. The project will provide two new wells,

new mains, a storage facility to provide improved fire protection, and fire hydrants. The community intends to finance 43% of the project with a loan from either the U.S. Farmers' Home Administration or the Montana Department of Natural Resources and Conservation Water Development Program, to be repaid by a local revenue bond.

STATE OBJECTIVES: 1 through 7, 9 through 11, and 25
through 28
NATIONAL OBJECTIVES: Benefit to LMI Persons

NAME OF APPLICANT: Lake County (for Charlo)
CDBG AMOUNT AWARDED: \$195,015
OTHER PUBLIC FUNDS: \$ 34,405
TOTAL PROJECT COST: \$229,420
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 54%

PROJECT DESCRIPTION: This project will assist the 125 families residing in the unincorporated community of Charlo by completely replacing the water distribution system. The existing system consists of wooden mains installed in 1948 which frequently break causing increasing repair costs, loss of water supply, and high potential for contamination. The community was ordered to boil its drinking water by the Montana Department of Health and Environmental Sciences in 1984. The project will provide new mains, fire hydrants and will install water meters on high-volume users. The community intends to finance 15% of the project with a loan from the Montana Department of Natural Resources and Conservation Water Development Program, to be repaid by a local revenue bond.

STATE OBJECTIVES: 1, 4, 6, 9 through 11 and 25 through 28
NATIONAL OBJECTIVES: Benefit to LMI Persons

NAME OF APPLICANT: Town of Melstone
CDBG AMOUNT AWARDED: \$500,000
OTHER PUBLIC FUNDS: \$ 75,850
TOTAL PROJECT COST: \$575,850
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 51%

PROJECT DESCRIPTION: This project will assist the 80 families residing in the Town of Melstone by providing a new water supply system consisting of an intake structure adjacent to the Musselshell River, settling basins, and a filtration and treatment plant. The current system is considered unreliable both in terms of quantity and quality; the town's water has been classified as unfit for domestic uses by State health authorities. Most residents have been hauling drinking water from outside the town. The Town intends to finance 13% of the project through a local revenue bond.

STATE OBJECTIVES: 1 through 7, 9 through 11 and 25 through 28
NATIONAL OBJECTIVES: Benefit to LMI Persons

NAME OF APPLICANT: Town of Neihart
CDBG AMOUNT AWARDED: \$136,789
OTHER PUBLIC FUNDS: \$483,461
TOTAL PROJECT COST: \$620,250
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 51%

PROJECT DESCRIPTION: This project will assist the 34 families residing year-around in the Town of Neihart by providing a new distribution system for an already developed alternative water source which meets State health standards. The existing supply is inadequately filtered and treated. In addition, leaks in the existing system present a high potential for contamination from sewage from septic tanks and drainfields. The town has been ordered to boil its drinking water by the Montana Department of Health and Environmental Sciences until the problems with the existing system are resolved. The project will include replacement of water mains, connection of household water services, and installation of water meters. The Town intends to finance 78% of the project with loans from either the U.S. Farmers' Home Administration or the Montana Department of Natural Resources Water Development Program. A portion of the CDBG funds will be used to pay for the construction assessments, connection of household water services, and installation of water meters for low and moderate income families.

STATE OBJECTIVES: 4, 9, 25 and 26
NATIONAL OBJECTIVE: Benefit to LMI Persons

NAME OF APPLICANT: Town of Saco
CDBG AMOUNT AWARDED: \$500,000
OTHER PUBLIC FUNDS: \$152,300
TOTAL PROJECT COST: \$652,300
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 54%

PROJECT DESCRIPTION: This project will assist the 75 families residing in the Town of Saco by constructing an alternative water source consisting of two wells and a 5½ mile transmission line to the community, renovating the existing distribution system, and replacing defective service lines and water meters. The existing water supply system consists of water wells contaminated with minerals, sodium, and hydrogen sulfide gas and a 70 year old wooden transmission line which has allowed infiltration of irrigation water contaminated with blue-green algae and ground water contaminated with animal waste. The town intends to finance 23% of the project with a loan from the Montana Department of Natural Resources and Conservation Water Development Program, to be repaid by a local revenue bond.

STATE OBJECTIVES: 1 through 7, 9 through 11, and 25
through 28
NATIONAL OBJECTIVE: Benefit to LMI Persons

NAME OF APPLICANT: City of White Sulphur Springs
CDBG AMOUNT AWARDED: \$500,000
OTHER PUBLIC FUNDS: \$643,000
TOTAL PROJECT COST: \$1,143,000
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 67%

PROJECT DESCRIPTION: This project will assist the 458 families residing in the City of White Sulphur Springs by constructing a well for municipal water supply, and an associated transmission line from the source to the community, by renovating and replacing substandard distribution lines, and by installing water meters for all low and moderate income households. The City's existing water supply violates State and federal standards, is subject to contamination by Giardia (an intestinal parasite) and provides insufficient quantities during critical periods of the year. In addition to dealing with health concerns, the improvements will also provide adequate water quantities for domestic use and fire protection. The City intends to finance 56% of the project with a loan from the Montana Department of Natural Resources and Conservation Water Development Program, to be repaid by a local revenue bond.

STATE OBJECTIVES: 1 through 7, 9 through 11, and 25
through 28
NATIONAL OBJECTIVE: Benefit to LMI Persons

NAME OF APPLICANT: Town of Winnett
CDBG AMOUNT AWARDED: \$58,000
TOTAL PROJECT COST: \$58,000
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 61%

PROJECT DESCRIPTION: The Town of Winnett submitted a request for \$413,989 to renovate an existing water storage tank, construct a new storage tank, and install automatic monitoring equipment. The Montana Department of Health and Environmental Sciences considers the present condition of the existing reservoir a serious health threat and has ordered residents to boil their drinking water until adequate repairs are made. The Montana Department of Commerce did not have sufficient CDBG funds to fully fund the request after awarding grants for several other public facility projects; however, the Department awarded \$58,000 in available funds to the Town for the purpose of renovating the existing water storage tank to meet State standards.

STATE OBJECTIVES: 1 through 7, 9, 10, 25 and 26
NATIONAL OBJECTIVE: Benefit to LMI Persons

MULTIPURPOSE GRANTS

NAME OF APPLICANT: Butte-Silver Bow
CDBG AMOUNT AWARDED: \$500,000 for FY 1984, \$500,000 for FY 1985
OTHER PUBLIC FUNDS: \$378,000 (\$100,000 local, \$120,000 HUD Rental Rehabilitation, \$50,000 Montana Department of State Lands, \$108,000 CDBG program income)
PRIVATE FUNDS: \$58,000 (Anaconda Minerals Company)
TOTAL PROJECT COST: \$1,436,000
PERCENT BENEFIT TO LOW AND MODERATE INCOME (LMI): 100%

PROJECT DESCRIPTION: This two-year multipurpose project will revitalize the Northside Neighborhood of Butte. The target area has 375 households with 83% of the families of low or moderate income. The area is a designated blighted area, with 76% of the housing substandard and 95% of the housing built before 1910.

The housing component of the project includes rehabilitation of 50 homeowner housing units, 50 renter units, and demolition of 10 structures. This will be achieved through a combination of FY 84 CDBG funds, HUD Rental Rehabilitation funds, and program income generated from previous CDBG grants.

The public facilities component involves reclamation of two abandoned mines, improvements to the storm sewer system, sidewalks, alleys, surface drainage control, street lighting, and parks. This will be achieved through a combination of FY 84 CDBG funds, local funds, Montana Department of State Lands, and Anaconda Minerals Company funds.

STATE OBJECTIVES: 1 through 8, 9 through 12, 16 through 20, 24, 25, 27, and 28
NATIONAL OBJECTIVE: Benefit to LMI, Elimination of Slums and Blight

In addition, \$1 million of Fiscal Year 1985 funds was previously committed to two multi-year, multipurpose projects as a result of the 1983 CDBG competition. Those projects are described below:

NAME OF APPLICANT:	City of Kalispell
CDBG AMOUNT AWARDED:	\$1,500,000 (\$500,000 per year for Fiscal Years 1983, 1984 and 1985)
OTHER PUBLIC FUNDS:	\$403,000
PRIVATE FUNDS:	\$3,126,000
TOTAL PROJECT COSTS:	\$5,209,000
PERCENT BENEFIT TO LOW AND MODERATE INCOME (LMI):	96%

PROJECT DESCRIPTION: This multi-year project consists of three components: (1) housing rehabilitation grants and low-interest loans would be offered in a neighborhood adjacent to the central business district with a high concentration of substandard homes and low and moderate income residents. CDBG funds would be used to subsidize interest rates for the loans; the loans would be handled through two local lenders. The project will make possible the rehabilitation of approximately 90 housing units.

(2) Subsidized low-interest commercial rehabilitation loans would be offered in Kalispell's downtown redevelopment area in cooperation with a local lender; receipt of loans would be contingent upon creation of jobs for low and moderate income persons by the assisted businesses.

Kalispell's previous multi-year grant from HUD resulted in one job created for each \$2,220 in CDBG funds spent, with 140 total jobs created.

(3) A new manufacturing enterprise would be established under the direction of Flathead Industries, primarily for handicapped and low and moderate income persons, using CDBG funds and a \$200,000 grant from the U.S. Department of Health and Human Services. Thirty jobs will be created, two-thirds of which will be for low and moderate income persons. Flathead Industries has developed a hiring plan to recruit low and moderate income applicants for the new positions.

The project activities will take place either wholly or partially in the designated redevelopment area of central Kalispell.

STATE OBJECTIVES:	1 through 8, 9 through 20 and 24
NATIONAL OBJECTIVE:	Benefit to LMI, Prevention and Elimination of Slums and Blight

NAME OF APPLICANT: Hill County
CDBG AMOUNT AWARDED: \$1,500,000 (\$500,000/year for 3 years)
OTHER PUBLIC FUNDS: \$157,196
PRIVATE FUNDS: \$16,260,300
TOTAL PROJECT COST: \$17,917,496
PERCENT BENEFIT TO LOW
AND MODERATE INCOME (LMI): 56%

PROJECT DESCRIPTION: CDBG funds would be used for the following activities:

Fiscal Year 1983 -- The project would rebuild the Milk River weir which diverts water to Havre's water treatment plant. The weir supplies almost two-thirds of Havre's water supply which, in turn, supplies water to the County industrial park. The weir, built in 1972, has been 70% destroyed by spring high-water flows despite past city efforts to make remedial repairs. The weir could fail in any period of high flow. The provision of a dependable water supply for industrial part is the first step in Hill County's comprehensive strategy for supporting local economic development.

Fiscal Year 1984 -- The county will expand its industrial park by the addition of 20 acres to be donated by Big Bud Tractors. The county would use CDBG funds to construct a building to be used as a paint shop which would meet production goals and OSHA standards which they are in violation of now. The company does not have the necessary capital to construct the facility because it is involved in an approved Chapter 11 reorganization plan.

Fiscal Year 1986 -- Big Bud, with financial support from Borg-Warner, will acquire Friggstad Manufacturing, the current occupant of the county's industrial park. Big Bud would assume the lease and form a new division to produce tractor-earth scraper units. During the third year, the county will construct a bonded warehouse in the industrial park with CDBG funds, which would eliminate freight and supply problems that previously plagued the Big Bud operation and other local manufacturers.

STATE OBJECTIVES: 13, 15, 25 and 26
NATIONAL OBJECTIVE: Benefit to LMI Persons

APPENDIX B

ACTIVITIES ELIGIBLE FOR CDBG ASSISTANCE UNDER THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED BY THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

The following includes the entire text of Section 105(a) of the Housing and Community Development Act of 1974 which describes the activities which are eligible for CDBG assistance. The underlined portions of the following pages indicate the amendments made to the Act by the Housing and Urban-Rural Recovery Act of 1983. These amendments govern the use of CDBG funds beginning with the Fiscal Year 1984 program. HUD regulations and guidelines contained in appendices C and D describe additional requirements which may affect activities under consideration for a local CDBG project.

Eligible Activities

Section 105(a) Activities assisted under this title may include only:

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except buildings for the general conduct of government), and site or other improvements;

(3) Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;

(7) disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

(8) provisions of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of

the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this title for fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such year, whichever method of calculation yields the higher amount;

(9) payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this title;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949:

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) grants to neighborhood-based nonprofit organizations, local development corporations, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development energy conservation project in furtherance of the objectives of section 101(c), including grants to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of comprehensive community-wide energy use strategy, which may include items such as --

(A) a description of energy use and projected demand by sector, by fuel type, and by geographic area;

(B) an analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

(C) an analysis of the manner in, and the extent to, which the community's neighborhood revitalization, housing, and economic development strategies will support its energy conservation policy;

(D) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, land use planning and zoning, and traffic control, parking, and public transportation functions;

(E) a statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low-and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

(F) appropriate provisions for energy emergencies;

(G) identification of the local governmental unit responsible for administering the energy use strategy;

(H) provision of a schedule for implementation of each element in the strategy; and

(I) a projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy;

(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project; and

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937.

(b) Upon the request of the recipient of assistance under this title, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation or properties as authorized under subsection (a)(4).

(c)(1) In any case in which an assisted activity described in paragraph (14) or (17) of subsection (a) is identified as principally benefitting persons of low and moderate income such activity shall --

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominantly by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2) In any case in which an assisted activity described in subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (A) not less than 51 percent of the residents of such area are persons of low and moderate income; or (B) in any jurisdiction having no areas meeting the requirements of subparagraph (A), the area served by such activity has a larger proportion of persons of low and moderate income than not less than 75 percent of the other areas in the jurisdiction of the recipient.*

(3) Any assisted activity under this title that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

*Technical amendments to the Act in 1984 limit the exception provided in this paragraph to urban counties and metropolitan cities starting with the FY 1985 program. The option provided in this paragraph (2) is therefore not available to applicants for the Montana CDBG Program.

APPENDIX C

U.S. Department
of
Housing and Urban Development (HUD)
Office of Community Planning
and Development

Regulations for the CDBG Program
published in the
Federal Register
September 23, 1983

24 Code of Federal Regulations (CFR) - Part 570

The following HUD regulations formerly applied to entitlement communities only (cities over 50,000 population). According to HUD guidelines published on February 17, 1984, as a result of the enactment of the Housing and Urban-Rural Recovery Act in November, 1983, the following portions of the regulations will apply to the Fiscal Year 1984 State CDBG Program:

Subpart C -- Eligible Activities.....page 43558

Subpart K -- Other Program Requirements.....page 43568

Subpart O -- Program Management.....page 43574

The portions of Subparts C, K, and O which, according to HUD, are not applicable to the State CDBG Program have been stricken by bold lines. These regulations should be read in conjunction with the HUD interpretative guidelines of February 17, 1984, (Appendix D) regarding the amendments made by the Housing and Urban-Rural Recovery Act of 1983 in order to understand the full implications of the revised requirements for the 1984 State CDBG Program.

These regulations and the companion interpretative guidelines will be in effect until HUD adopts separate regulations for the State (Non-entitlement) CDBG Program.

Friday
September 23, 1983

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

Community Development Block Grants

Reprint

This copy includes corrections of
typographical errors in the original
publication.

- Sec.
 570.603 Labor standards
 570.604 Environmental standards.
 570.605 National Flood Insurance Program
 570.606 Relocation and acquisition.
 570.607 Employment and contracting opportunities.
 570.608 Lead-based paint.
 570.609 Use of debarred, suspended, or ineligible contractors or subrecipients
 570.610 Uniform administrative requirements and cost principles.
 570.611 Conflict of interest.
 570.612 Displacement
 * * *

Subpart M—Loan Guarantees

- 570.700 Eligible applicants.
 570.701 Eligible activities.
 570.702 Application requirements.
 570.703 Loan requirements.
 570.704 Federal guarantee.
 570.705 Applicability of rules and regulations.
 * * *

Subpart O—Program Management

- 570.901 Review for compliance with primary objectives.
 * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The Table of Contents to Subparts A, B, C, D, K, M and O of 24 CFR Part 570 is amended to read as follows:

Subpart A—General Provisions

- Sec.
 570.1 Purpose.
 570.2 Primary objective.
 570.3 Definitions.
 570.4 Allocation of funds.
 570.5 Waivers.

Subpart B—[Reserved]

Subpart C—Eligible Activities

- 570.200 General policies.
 570.201 Basic eligible activities.
 570.202 Eligible rehabilitation and preservation activities.
 570.203 Special economic development activities.
 570.204 Special activities by subrecipients
 570.205 Eligible planning and policy—planning—management—capacity building activities.
 570.206 Eligible administrative costs
 570.207 Ineligible activities

Subpart D—Entitlement Grants

- 570.300 General.
 570.301 Presubmission requirements.
 570.302 Submission requirements.
 570.303 Certifications.
 570.304 Making of grants
 570.305 Displacement.
 570.306 Housing assistance plan
 570.307 Urban counties.
 570.308 Joint requests
 * * *

Subpart K—Other Program Requirements.

- 570.600 General.
 570.601 Pub. L. 88-352 and Pub. L. 90-284; and Executive Order 11063.
 570.602 Section 109 of the Act

2. Subpart A of Part 570 is revised to read as follows:

Subpart A—General Provisions

§ 570.1. Purpose.

(a) This Part describes policies and procedures applicable to the following programs authorized under Title I of the Housing and Community Development Act of 1974, as amended:

- (1) Entitlement grants program (Subpart D);
- (2) Small Cities program: HUD-administered CDBG nonentitlement funds (Subpart F);
- (3) State's program: State-administered CDBG nonentitlement funds (Subpart I);
- (4) Secretary's Fund program (Subpart E);
- (5) Urban Development Action Grant program (Subpart C); and
- (6) Loan Guarantees (Subpart M)

(b) Subparts A, C, J, K and O apply to all of the above programs administered by HUD but do not apply to the State's Program (Subpart I) except to the extent expressly referred to (as, for example, in § 570.4). (Until Subparts J, K and O are amended to more completely reflect the Housing and Community Development Amendments of 1981, they should be read as applying to the Entitlement grants program in a manner which recognizes the deletion of the application requirements for grants made in Federal Fiscal Year 1982 and thereafter.)

§ 570.2 Primary objective.

The primary objective of Title I of the Housing and Community Development Act of 1974, as amended, is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

§ 570.3 Definitions.

(a) "Act" means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*).

(b) "Age of housing" means the number of existing year-round housing units constructed in 1939 or earlier, based on data compiled by the United States Bureau of the Census referable to the same point or period of time, available from the latest decennial census except that the 1980 census data will not be used until Fiscal Year 1984.

(c) "Applicant" means a State, unit of general local government, or Indian tribe which makes application pursuant to the provisions of Subparts E, F, G or M.

(d) "Chief Executive Officer" of a State or unit of local government means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" of a unit of local government are: the elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of the unit of general local government;

(e) "City" means for purposes of Entitlement grant and Urban Development Action Grant eligibility: (1) Any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (2) any other unit of general local government which is a town or township and which, in the determination of the Secretary: (i) Possesses powers and performs functions comparable to those associated with municipalities; (ii) is closely settled (except that the Secretary may reduce or waive this requirement on a case by case basis for the purposes of the Action Grant program); and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census, which have not entered into cooperation agreements with such town or township for a period covering at least 3 years to undertake or to assist in the undertaking of essential community development

and housing assistance activities. The determination of eligibility of a town or township to qualify as a city will be based on information available from the United States Bureau of the Census and information provided by the town or township and its included units of general local government. For purposes of urban development action grant eligibility only, "city" includes Guam, the Virgin Islands, and Indian tribes which are eligible recipients under the State and Local Government Fiscal Assistance Act of 1972 and located on reservations or in Alaskan Native Villages.

(f) "Discretionary grant" means a grant made from the Secretary's Fund in accordance with Subpart E.

(g) "Entitlement amount" means the amount of funds which a metropolitan city or urban county is entitled to receive under the Entitlement grant program, as determined by formula set forth in section 106 of the Act.

(h) "Extent of growth lag" means the number of persons who would have been residents in a metropolitan city or urban county in excess of the current population of such metropolitan city or urban county had a population growth rate, between 1960 and the date of the most recent population count available from the United States Bureau of the Census referable to the same point or period in time, equal to the population growth rate for such period of all metropolitan cities.

(i) "Extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room as based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time, except that 1980 census data will not be used until Fiscal Year 1984.

(j) "Extent of poverty" means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time and the latest reports from the Office of Management and Budget. For purposes of this Part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of "extent of poverty" for regional or area variations in income and cost of living.

(k) "HUD" means the Department of Housing and Urban Development.

(l) "Identifiable segment of the total group of lower income persons in the community" means female-headed households, and members of a minority

group which includes Black, American Indian/Alaskan Native, Hispanic, Asian/Pacific Islander, and other groups normally identified by race, color, or national origin.

(m) "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512).

(n) "Low and moderate income household" or "lower income household" means a household whose income does not exceed 80 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(o) "Low and moderate income person" or "lower income person" means a member of a family having a family income within the limits determined in accordance with § 570.3(n) or any unrelated individual whose income does not exceed the one-person limit determined in accordance with § 570.3(n).

(p) "Metropolitan area" means a metropolitan statistical area, as established by the Office of Management and Budget. An area which was classified as a metropolitan area under criteria in effect as of December 31, 1979 shall continue to be so classified through Fiscal Year 1983 if it continues to meet such criteria.

(q) "Metropolitan city" means: (1) A city, within a metropolitan area, which is a central city of such area, as defined and used by the Office of Management and Budget (any such city which was classified as a central city as of December 31, 1979, shall continue to be so classified through Fiscal Year 1983), or (2) any other city, within a metropolitan area, which has a population of fifty thousand. Any city which has been classified as a metropolitan city because it has a population of at least fifty thousand will continue to be so classified through Fiscal Year 1983.

(r) "Nonentitlement amount" means the amount of funds which is allocated for use in a State's nonentitlement area as determined by formula set forth in section 106 of the Act.

(s) "Nonentitlement area" means an area which is not a metropolitan city or not included as part of an urban county.

(t) "Population" means the total resident population based on data compiled and published by the United States Bureau of the Census available from the latest census, or which has been upgraded by the Bureau to reflect the changes resulting from the Boundary and Annexation Survey, new incorporations, and consolidations of governments pursuant to § 570.4, and which reflects, where applicable, changes resulting from the Bureau's latest population determination through its estimating technique using natural changes (birth and death) and net migration, and is referable to the same point or period in time.

(u) "Secretary" means the Secretary of Housing and Urban Development.

(v) "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(w) "Unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; and the Trust Territory of the Pacific Islands. Such term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), a community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968.

(x) "Urban county" means any county within a metropolitan area which has qualified for a three-year period, pursuant to § 570.307, and which, at the time of qualification, is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and: (1) Has a combined population of two hundred thousand or more (excluding the population of metropolitan cities and Indian tribes therein) in such unincorporated areas; and in its included units of general local government: (i) In which it has authority

to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing activities, or (2) has population in excess of one hundred thousand, a population density of five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census. Any urban county which qualified as an urban county in Fiscal Year 1981, the population of which includes all of the population of the county (other than the population of metropolitan cities therein), and the population of which for Fiscal Year 1982 falls below the amount required by clause (1) of the preceding sentence by reason of the 1980 decennial census shall be considered as meeting the population requirements of such clause for Fiscal Year 1983 and shall not be subject to the provisions of § 570.307 in that fiscal year.

(y) "Urban Development Action Grant" (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and Subpart C of this Part.

§ 570.4 Allocation of funds.

(a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, the reallocation of funds, and the allocation of appropriated funds for discretionary grants under the Secretary's Fund shall be governed by the policies and procedures described in sections 106 and 107 of the Act, as supplemented in this section.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 106 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under sections 106 of the Act for any Federal Fiscal Year, the Department will recognize corporate status and geographical boundaries and the status of metropolitan areas and central cities effective as of July 1 preceding such Federal Fiscal Year, subject to the following limitations:

(1) With respect to corporate status, as certified by the applicable State and available for processing by the Census Bureau as of such date;

(2) With respect to boundary changes or annexations, as accepted for use by the Office of Revenue Sharing (ORS) for the same fiscal year and available for

processing by the Census Bureau as of such date, except that any such boundary changes or annexations which result in the population of a unit of general local government reaching or exceeding 50,000 shall be recognized for this purpose whether or not such changes are accepted for use by the ORS; and,

(3) With respect to the status of Metropolitan Statistical Areas and central cities, as officially designated by the Office of Management and Budget as of such date.

(d) In determining whether a county qualifies as an urban county, and in computing Entitlement amounts for urban counties, the demographic values of population, poverty, housing overcrowding, and age of housing of any Indian tribes located within the county shall be excluded. In allocating amounts to States for use in nonentitlement areas, the demographic values of population, poverty, housing overcrowding, and age of housing of all Indian tribes located in nonentitled areas shall be excluded. It is recognized that all such data on Indian tribes are not generally available from the United States Bureau of the Census and that missing portions of data will have to be estimated. In accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the data's point or period of time and shall use the best judgment possible in adjusting such data to reflect the same point or period of time as the overall data from which the Indian tribes are being deducted, so that such deduction shall not create an imbalance with those overall data.

(e) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512, Grant closeouts, shall be considered as funds available for reallocation.

§ 570.5 Waivers

The Secretary may waive any requirement of this Part not required by law whenever it is determined that undue hardship will result from applying the requirement and where application of the requirement would adversely affect the purposes of the Act.

3. Subpart B of Part 570 is removed and is being reserved for future use.

Subpart B—[Reserved]

4. Subpart C of Part 570 is revised to read as follows:

Subpart C—Eligible Activities

§ 570.200 General policies

(a) *Determination of eligibility.* An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) *Compliance with section 105 of the Act.* Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) *Compliance with primary objectives.* The Act establishes as its primary objective the development of ~~viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income.~~ For grant recipients under the Entitlement and HUD administered Small Cities programs, this overall objective is achieved through a program where the projected use of funds has been developed so as to give maximum ~~feasible priority to activities which will carry out one of the broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.~~ The choice of eligible activities on which block grant funds are to be expended represents the recipient's determination as to which approach or approaches will best serve these primary objectives, subject to the Secretary's authority to determine that a grantee has failed to carry out its activities in accordance with the primary objective of the Act. ~~Consequent with the foregoing, each recipient under the Entitlement and HUD administered Small Cities programs must ensure, and maintain evidence, that each of its CDBG funded activities meets one of the broad national objectives as contained in its certification, and each Entitlement grantee must be prepared to demonstrate that its use of funds taken as a whole is being carried out to further the primary objective of the Act.~~

(3) *Compliance with environmental review procedures.* The environmental review and clearance procedures set forth at 24 CFR Part 58 must be completed for each activity (or project

as defined in 24 CFR Part 58), as applicable.

~~(4) Cost principles. Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with the requirements of OMB Circulars A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," or A-122, "Cost Principles for Non-profit Organizations," as applicable. All items of cost listed in Attachment B of these Circulars are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Attachment A of such Circulars and are otherwise eligible under this Subpart. However, pre-agreement costs are limited to those costs identified at § 570.206(h).~~

~~(5) Other requirements. Each activity must comply with all requirements of this Part as they may apply under Subparts D, E, F, and G.~~

(b) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the CDBG program may be provided with program funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) *Fees for use of facilities.*

Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities are not permitted.

(c) *Special assessments under the CDBG program.* The following policies relate to the use of special assessments under the CDBG program:

(1) *Definition of special assessment.*

The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties.

This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes.

(2) *Special assessments to recover capital costs.* There can be no special assessment to recover that portion of a capital expenditure funded with CDBG funds. Recipients may, however, levy assessments to recover the portion of a capital expenditure funded from other sources. Funds collected through such special assessments are not program income.

(3) *Other uses of CDBG funds for special assessments.* Program funds may be used to pay all or part of special assessments levied against properties owned and occupied by low and moderate income persons when such assessments are used to recover that portion of the capital cost of public improvements financed from sources other than community development block grants, provided that:

(i) The assessment represents that property's share of the capital cost of the eligible facility or improvement; and

(ii) The installation of the public facilities and improvements was carried out in compliance with requirements applicable to activities assisted under this Part.

(d) *Consultant activities.* Consulting services are eligible for assistance under this Part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the maximum daily rate of compensation for a GS-18 as established by Federal law. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

~~(2) Independent contractor relationship. Consultant services provided under an independent contractor relationship are governed by the Procurement Standards of Attachment O of OMB Circular No. A-102 and are not subject to the GS-18 limitation.~~

(e) *Recipient determinations required as a condition of eligibility.* In several instances under this Subpart, the eligibility of an activity depends on a special local determination. Recipients

shall maintain documentation of all such determinations. ~~A written determination is required for any activity carried out under the authority of §§ 570.201(e)(1), 570.201(f), 570.202(b)(3), 570.203, 570.204, and 570.206(f). A written determination is also required for certain relocation costs under § 570.201(i).~~

(f) *Means of carrying out eligible activities.* Activities eligible under this Subpart may be undertaken either:

(1) by the recipient through:

(i) Its employees; or

~~(ii) Procurement contracts governed by the requirements of Attachment O of OMB Circular A-102; or~~

(2) Through agreements with subrecipients;

except that activities authorized in § 570.204(a)(2) may only be undertaken by subrecipients specified in that section:

(g) *Limitation on planning and administrative costs.* (Effective date: This paragraph is effective beginning with the first grant made under Subparts E or F, or the first program year commencing on or after the effective date of this rule.) No more than 20 percent of the sum of any grant plus program income shall be expended for planning and administrative costs, as defined in §§ 570.205 and 570.206 respectively. Recipients of Entitlement grants under Subpart D will be considered to be in conformance with this limitation if expenditures for planning and administration during the most recently completed program year did not exceed 20 percent of the sum of the Entitlement grant made for that program year and the program income received during that program year.

~~(h) Reimbursement for pre-agreement costs. Prior to the effective date of the grant agreement, a recipient may obligate and expend local funds for the purpose of environmental assessments required by 24 CFR Part 59, for the planning and capacity building purposes authorized by § 570.205(b), for engineering and design costs associated with an activity eligible under § 570.201 through § 570.204, for the provision of information and other resources to residents pursuant to § 570.206(b), and for relocation and/or acquisition activities carried out pursuant to § 570.206. After the effective date of the grant agreement, the recipient may be reimbursed with funds from its grant to cover those costs, provided such locally funded activities were undertaken in compliance with the requirements of this Part and 24 CFR Part 59.~~

~~(i) Urban Development Action Grant. Grant assistance may be provided with Urban Development Action Grant funds.~~

subject to the provision of Subpart C, for:

- (1) Activities eligible for assistance under this Subpart; and
- (2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

§ 570.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by a public agency or private nonprofit entity, by purchase, lease, donation, or otherwise, of real property (including air rights, water rights, rights of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207(a).

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.506.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities. In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Nonprofit entities and subrecipients as specified in § 570.204 may acquire title to public facilities such as senior centers, centers for the handicapped, or neighborhood facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § 570.200(b) and the restrictions specified below.

(1) Parks, playgrounds, and recreational facilities established as a result of reclamation and other

construction activities carried out in connection with a river and adjacent land, and flood and drainage facilities are eligible ~~only where assistance has been determined to be unavailable under other Federal laws or programs. No CDBG funds may be obligated or expended for activities specified in this subparagraph until the recipient has complied with the following requirements.~~

(i) ~~An application or written request has been made to the Federal agency that customarily funds the proposed activity within the recipient's jurisdiction; and~~

(ii) ~~The application or request has been rejected, or the recipient has been advised that funds will not be made available for at least 90 days after the date of the application or request, or there has been no response from the Federal agency after 45 days from the date of the application or request.~~

(2) ~~The following facilities are eligible only when located in or serving areas where other community development activities have been or are being carried out:~~

- (i) ~~Parking facilities;~~
- (ii) ~~Fire protection facilities and equipment; and~~
- (iii) ~~Solid waste disposal, recycling or conversion facilities.~~

(d) ~~Clearance activities.~~ Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. ~~Demolition of HUD assisted housing units may be undertaken only with the prior approval of HUD.~~

(e) *Public services.* (Effective date: This paragraph is effective as of the beginning of the recipient's program funded from Federal Fiscal Year 1982 and subsequent appropriations.) Provision of public services (including labor, supplies, and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare, or recreational needs. In order to be eligible for CDBG assistance, public services must meet each of the following criteria:

(1) A public service must be either: (i) A new service, or (ii) a quantifiable increase in the level of a service above that which has been provided by or in behalf of the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) in the twelve calendar months prior to the submission of the statement. (An exception to this requirement may be

made if HUD determines that the decrease in the level of a service was the result of events not within the control of the unit of general local government.)

(2) The amount of funds used for public services, including services provided by subrecipients under § 570.204, shall not exceed 10 percent of each grant except as provided in subparagraph (3) below. For Entitlement grants under Subpart D, compliance is based on the amount of funds obligated for public service activities in each program year compared to the Entitlement grant made for that program year.

(3) A recipient which allocated more than 10 percent of its grant for public services in its program funded from Federal Fiscal Year 1981 appropriations may obligate more than 10 percent of its grant for public services in each of its program years funded from Federal Fiscal Years 1982, 1983, or 1984 appropriations so long as the amount obligated in any such program year does not exceed the amount allocated in Fiscal Year 1981. For the purposes of this provision, the Fiscal Year 1981 allocation is the amount specified for public service activities in the Cost Summary applicable to the program funded from Fiscal Year 1981 appropriations, as of October 1, 1981.

(f) *Interim assistance.*

(1) The following activities may be undertaken on an interim basis in are is exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable.

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public building; and

(ii) The execution of special garbage trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in subparagraph (1) above, except for the repair of parks and playgrounds;

(ii) For the clearance of streets, including snow removal and similar activities; and

(iii) The improvement of private properties.

All activities authorized under this subparagraph are limited to the extent necessary to alleviate emergency conditions.

(g) *Payment of the non Federal share* required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible under this Subpart.

(h) *Urban renewal completion.*

Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and assistance for permanently or temporarily displaced individuals, families, businesses, nonprofit organizations, and farm operations where: (1) Required under the provisions of § 570.606(a); and (2) relocation payments and assistance are determined by the recipient to be appropriate as provided in § 570.606(b).

(j) *Loss of rental income.* Payments of housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be utilized for the relocation of individuals, and families displaced by program activities assisted under this Part.

(k) *Removal of architectural barriers.* Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements. Further information regarding the removal of architectural barriers is available in the current publication of the American National Standards Institute, Inc., ANSI A117.1.

(l) *Privately owned utilities.* CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

§ 570.202 Eligible rehabilitation and preservation activities.

(a) *Types of buildings and improvements eligible for rehabilitation assistance.* CDBG funds may be used to finance the rehabilitation of:

- (1) Privately owned buildings and improvements;
- (2) Low income public housing and other publicly owned residential buildings and improvements; and
- (3) Publicly owned nonresidential buildings and improvements otherwise eligible for assistance.

Specific information on historic properties is included in paragraph (d) of this section.

(b) *Types of assistance.* CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section:

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property rehabilitated with CDBG funds if such financing is necessary or appropriate to achieve the recipient's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and repair of water leaks;

(6) Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

- (i) Initial homeowner warranty premiums;
- (ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and
- (iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to § 570.605;
- (8) Costs of tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation; and
- (9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing,

inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, and under section 810 of the Act.

(c) *Code enforcement.* Code enforcement in deteriorating or deteriorated areas where such enforcement together with public improvements, rehabilitation, and services to be provided, may be expected to arrest the decline of the area.

(d) *Historic preservation.* CDBG funds may be used for the rehabilitation, preservation, and restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local Inventory of Historic Places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation does not include, however, the expansion of properties for ineligible uses, such as buildings for the general conduct of government.

(e) *Renovation of closed school buildings.* CDBG funds may be used to renovate closed school buildings for use as an eligible public facility, for a commercial or industrial facility, or for housing.

§ 570.203 Special economic development activities.

A recipient may use CDBG funds for special economic development activities authorized under this section if it determines that such activities are necessary or appropriate to carry out an economic development project. Special economic development activities are permitted in addition to other activities authorized in this Subpart which may be carried out as part of an economic development project. Special activities authorized under this section do not include assistance for the construction of new housing. Special economic development activities include:

(a) The acquisition, construction, reconstruction, or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient, subrecipients, or private for profit businesses. (Rehabilitation of commercial or industrial buildings and improvements is eligible under § 570.202.)

(b) The provision of assistance to private for profit businesses, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any other activity necessary or appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a).

§ 570.204 Special activities by subrecipients.

(a) *Eligible activities.* The recipient may grant CDBG funds to any of the three types of subrecipients specified in paragraph (c) below, to carry out a neighborhood revitalization, community economic development, or energy conservation project. Such a project may include:

(1) Activities listed as eligible under this Subpart; and

(2) Activities not otherwise listed as eligible under this Subpart, except those described as ineligible in § 570.207(a), when the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.

(b) *Recipient responsibilities.*

Recipients under Subparts D, F, or G are responsible for ensuring that CDBG funds are utilized by subrecipients in a manner consistent with the requirements of this Part and other applicable Federal, State, or local law. Grantees are also responsible for carrying out the environmental review and clearance responsibilities.

(c) *Eligible subrecipients.* The following are subrecipients authorized to receive grants under this section.

(1) *Neighborhood-based nonprofit organizations.* A neighborhood-based nonprofit organization is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDBG funds are to be carried out. A neighborhood is defined as:

(i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood;

(ii) The entire jurisdiction of a unit of general local government which is under 25,000 population; or

(iii) A neighborhood, village, or similar geographical designation, in a

new community as defined in § 570.403(a).

(2) *Section 301(d) Small Business Investment Companies.* A section 301(d) Small Business Investment Company is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making.

(3) *Local Development Corporations.* A local development corporation is:

(i) An entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981) or the Community Economic Development Act of 1981 (42 U.S.C. 9801 *et seq.*);

(ii) An entity eligible for assistance under section 502 or 503 of the Small Business Investment Act of 1958 (15 U.S.C. 696);

(iii) Other entities incorporated under State or local law whose membership is representative of the area of operation of the entity (including nonresident owners of businesses in the area) and which is similar in purpose, function, and scope to those specified in (i) or (ii) above; or

(iv) A State development entity eligible for assistance under Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695).

§ 570.205 Eligible planning and policy—planning—management—capacity building activities

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and implementing actions, including, but not limited to:

- (1) Comprehensive plans;
- (2) Community development plans;
- (3) Functional plans, in areas such as:
 - (i) Housing, including the development of a Housing Assistance Plan;
 - (ii) Land use;
 - (iii) Economic development;
 - (iv) Open space and recreation;
 - (v) Energy use and conservation;
 - (vi) Floodplain management in accordance with the requirements of Executive Orders 11988 and 11990;
 - (vii) Transportation;
 - (viii) Utilities; and
 - (ix) Historic preservation.
- (4) Other plans and studies such as,
 - (i) Small area and neighborhood plans;
 - (ii) Capital improvements programs;
 - (iii) Individual project plans (but excluding engineering and design cost related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201–570.204);
 - (iv) The reasonable costs of general environmental and historic preservation

studies. However, costs necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this Part are eligible as part of the cost of such activities under §§ 570.201–570.204 and are therefore not planning costs for the purposes of § 570.200(g).

(v) Strategies and action programs to implement plans, including development of codes, ordinances and regulations necessary to implement such plans; and

(vi) Support of cleaningshouse functions.

(b) *Policy—planning—management—capacity building activities* which will enable the recipient to:

- (1) Determine its needs;
- (2) Set long-term goals and short-term objectives, including those related to environmental design;
- (3) Devise programs and activities to meet these goals and objectives;
- (4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and
- (5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation

§ 570.206 Eligible administrative costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities financed in whole or in part with funds provided under this Part and housing activities covered in the recipient's Housing Assistance Plan (HAP).

(a) *General management, oversight, and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation, and similar costs associated with management, but excluding activity delivery costs which are eligible as part of the cost of carrying out the activity under § 570.201 through § 570.204. Such costs include, but are not limited to, necessary expenditures for the following:

- (1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in general management, coordination, monitoring, and evaluation;
- (2) Travel costs incurred for official business in carrying out the program;
- (3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and
- (4) Other costs for goods and services required for administration of the

program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies, and rental or purchase of office equipment.

(b) *The provision of information and other resources to residents* and citizen organizations participating in the planning, implementation, or assessment of activities being carried out with CDBG funds.

(c) *Provision of fair housing counseling services* and other activities designed to further the fair housing objectives of Title VIII of the Civil Rights Act of 1968 and the housing objective of promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of lower income persons.

(d) *Provision of assistance to facilitate performance and payment bonding* necessary for contractors carrying out activities assisted with CDBG funds including payment of bond premiums on behalf of contractors.

~~(e) Indirect costs. Costs may be charged to the CDBG program under a cost-allocation plan prepared in accordance with OMB Circulars A-87, or A-122 as applicable.~~

~~(f) Submissions or applications for Federal programs. Preparation of documents required for submission to HUD or States to receive funds under the CDBG and UDAC programs. In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.~~

(g) *Administrative expenses to facilitate housing.* The construction of new housing or direct financing of new or existing housing is not an eligible use of CDBG funds, except as described in § 570.207(b)(3). However, CDBG funds may be used for necessary administrative expenses in planning or obtaining financing for housing units as follows: for Entitlement grantees, assistance authorized by this paragraph is limited to units which are identified in the grantee's HUD approved Housing Assistance Plan; for Small cities grantees, assistance authorized by this paragraph is limited to facilitating the purchase or occupancy of existing units which are to be occupied by lower income households, or the construction of rental or owner units where at least 20 percent of the units in each project will be occupied at affordable rents/ costs, by lower income persons. Examples of eligible actions are as follows:

(1) The cost of conducting preliminary surveys and analysis of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 Housing Assistance Payments Program pursuant to 24 CFR Part 880-883;

(4) Fees associated with processing of applications for mortgage or insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA);

(5) The cost of issuance and administration of mortgage revenue bonds used to finance the acquisition, rehabilitation, or construction of housing, but excluding costs associated with the payment or guarantee of the principal or interest on such bonds; and

(6) Special outreach activities which result in greater landlord participation in Section 8 existing, or similar program for lower income persons.

§ 570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§ 570.201-206 of this Subpart is ineligible to be carried out with CDBG funds. This section identifies two specific activities that are ineligible and provides guidance thought to be necessary in determining the eligibility of several other activities frequently associated with housing and community development.

(a) The following activities may not be carried out using CDBG funds:

(1) Buildings, or portions thereof, used predominantly for the general conduct of government cannot be assisted with CDBG funds. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body of the recipient meets regularly, courthouses, jails, police stations, and other State or local government office buildings. This does not exclude, however, the removal of architectural barriers under § 570.201(k) and historic preservation under § 570.202(d) involving any such building. Also, where acquisition of real property

includes an existing improvement which is to be utilized in the provision of a building or facility for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible.

(2) *General government expenses.* Except as otherwise specifically authorized in this Subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this Part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally financed in whole or in part with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges if any.

(b) The following activities may not be carried out with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein, or when carried out by a subrecipient under the provisions of § 570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDBG funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c)(2).

(ii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase, or to pay depreciation or use allowances (in accordance with OMB Circulars A-87 or A-122, as applicable), for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or as a public service pursuant to § 570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, where a public service is being assisted with CDBG funds, the cost of operating and maintaining that portion of the facility in which the service is located is eligible as part of the public service. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs.

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and

(3) *New housing construction.* Assistance may not be used for the construction of new permanent residential structures or for any program to subsidize or finance such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR Part 42; or,

(ii) When carried out by a subrecipient pursuant to § 570.204(a)(2).

For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site essemblage provision of site improvements and provision of public improvements and certain housing preconstruction costs set forth in § 570.206(g), are not considered as activities to subsidize or finance new residential construction.

(4) *Income payments.* The general rule is that assistance shall not be used for income payments for housing or any other purpose. Examples of ineligible income payments include the following: payments for income maintenance, housing allowances, down payments, and mortgage subsidies.

5. Subpart D of Part 570 is revised to read as follows:

Subpart D—Entitlement Grants

§ 570.300 General.

This Subpart describes the policies and procedures governing the making of Community Development Block grants to Entitlement communities. The policies and procedures set forth in Subparts A, C, J, K, and O of this Part also apply to Entitlement grantees.

§ 570.301 Presubmission requirements.

(a) Prior to the submission to HUD for its annual grant, the grantee must:

(1) Develop a proposed statement of community development objectives and projected use of funds, including the following items:

(i) The community development objectives the grantee proposes to pursue; and

(ii) The community development activities the grantee proposes to carry out with anticipated CDBG funds, including all funds identified in paragraph (a)(2)(i) below, to address its identified community development objectives. Each such activity must:

(A) Address at least one of the three broad national objectives;

(B) Be eligible pursuant to the provisions of Subpart C; and

(C) Be described in sufficient detail, including location, to allow citizens to determine the degree to which they may be affected.

(2) Meet the following citizen participation requirements:

(i) Furnish citizens with information concerning the amount of CDBG funds expected to be available (including the annual grant, program income, surplus from urban renewal settlement, and proceeds from HUD guaranteed loans) for community development and housing activities, and the range of activities that may be undertaken with those funds;

(ii) Hold at least one public hearing to obtain the views of citizens on the grantee's housing and community development needs; and

(iii) Publish community-wide its proposed statement of community development objectives and projected use of funds so as to afford affected citizens an opportunity to examine the statement's contents, and to provide comments on the proposed statement and on the grantee's community development performance.

(3) Prepare its final statement of community development objectives and projected use of funds. Once the grantee has completed the citizen participation requirements in paragraph (a)(2) above, the grantee must consider any such comments and views received and if the grantee deems appropriate modify the

proposed statement. The grantee shall make the final statement available to the public. The final statement may include activities which do not either benefit low and moderate income persons or prevent or eliminate slums and blight only if the grantee identifies such activities in the final statement and certifies that such activities are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.

(4) Submit and receive approval of its Housing Assistance Plan in accordance with § 570.306.

(b) The grantee may elect not to carry out an activity contained in its final statement or to carry out activities other than those described in such statement, provided it has afforded affected citizens an opportunity to comment on the proposed changes. The grantee shall make available to the public and shall submit to HUD a description of any changes adopted. The procedures in this paragraph shall also be followed when a grantee deletes an activity from or adds an activity to those activities described in applications approved prior to Fiscal Year 1982.

§ 570.302 Submission requirements.

(a) *Content.* In order to receive its annual CDBG Entitlement grant, a grantee must submit the following:

(1) Standard Form 424;

(2) A copy of the grantee's final statement of community development objectives and projected use of funds, covering the same items as listed in § 570.301(a)(1); and

(3) Certifications satisfactory to the Secretary covering all of the items listed in § 570.303.

(b) *Timing of submissions.*

(1) In order to facilitate continuity in its program, the grantee should submit its final statement to HUD at least 30 days prior to the start of its community development program year, but in no event will HUD accept a submission for a grant earlier than December 1 or later than the first working day in September of the Federal Fiscal Year for which the grant funds are appropriated.

(2) A program year shall run for a twelve month period. A grantee may, however, either shorten or lengthen its program year, provided HUD receives written notice of a lengthened program year at least two months prior to the date the program year would have ended if it had not been lengthened, or HUD receives notice of a shortened

program year at least two months prior to the end of the shortened program year.

(The OMB has approved Standard Form 424 under No. 29-RO218)

§ 570.303 Certifications.

The grantee shall submit certifications that:

(a) It possesses legal authority to make a grant submission and to execute a community development and housing program;

(b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the grantee to submit the final statement and all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the grantee to act in connection with the submission of the final statement and to provide such additional information as may be required.

(c) Prior to submission of its final statement to HUD, the grantee has:

(1) Met the citizen participation requirements of § 570.301(a)(2);

(2) Prepared its final statement of community development objectives and projected use of funds in accordance with § 570.301(a)(3) and made the final statement available to the public;

(d) The grant will be conducted and administered in compliance with:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d *et seq.*); and,

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284, 42 U.S.C. 3601 *et seq.*).

(e) It has developed its final statement of projected use of funds so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. (The final statement of projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.)

(f) It is following a current housing assistance plan which has been approved by HUD pursuant to § 570.306.

(g) It will comply with the other provisions of the Act and with other applicable laws.

§ 570.304 Making of grants.

(a) *Acceptance of final statement and certifications.* The final statement and

certifications will be accepted by the responsible HUD Field Office unless it is determined that one or more of the following requirements have not been met.

(1) *Completeness.* The submission shall include all of the components required in § 570.302(a).

(2) *Timeliness.* The submission must be received within the time period established in § 570.302(b)(1).

(3) *Certifications.* In the absence of independent evidence (which may, but need not, be derived from performance reviews and audits performed by the Secretary pursuant to section 104(d) of the Act) which tends to challenge in a substantial manner the certifications made by the grantee, such certifications will be deemed satisfactory to the Secretary if made in compliance with the requirements of § 570.303. If such independent evidence is available to the Secretary, however, the Secretary may require such further information or assurances to be submitted by the grantee as the Secretary may consider warranted or necessary in order to find the grantee's certifications satisfactory.

(b) *Grant agreement.* The grant will be made by means of a grant agreement executed by both HUD and the grantee.

(c) *Grant amount.* The Secretary will make a grant in the full Entitlement amount, generally within the last 30 days of the grantee's current program year unless:

(a) The final statement or certifications are not received by the first working day in September or are not acceptable under paragraphs (a)(1) and (3) of this section in which case the grantee will forfeit the entire entitlement amount; or

(2) The grantee's performance does not meet the standards prescribed in Subpart O and the grant amount is reduced.

(d) *Conditional grant.* The Secretary may make a conditional grant in which case the obligation and utilization of grant funds for activities may be restricted. Conditional grants may be made where there is substantial evidence that there has been, or there will be, a failure to meet the performance standards described in Subpart O. In such case, the reason for the conditional grant, the actions necessary to remove the condition and the deadline for taking those actions shall be specified. Failure to satisfy the condition may result in a reduction in the Entitlement amount pursuant to Subpart O.

§ 570.305 Displacement.

Where one or more CDBG activities could result in displacement, as defined

in § 570.612(a), the grantee shall develop, adopt, and make public a statement of local policy indicating the steps that will be taken, consistent with other goals and objectives of the CDBG program, to minimize displacement of persons from their homes and neighborhoods and to mitigate the adverse effects of any such displacement on low and moderate income persons. These actions, together with implementation of the local policy, will demonstrate compliance with the general policy on displacement described in § 570.612(b).

§ 570.306 Housing assistance plan.

(a) *Purpose.* In its housing assistance plan (HAP), each metropolitan city and urban county surveys its housing conditions, assesses the housing assistance needs of its low and moderate income (lower income) households, specifies goals for the number of dwelling units and lower income households to be assisted, and indicates the general locations of proposed assisted housing for lower income persons.

(b) *Use.* A grantee's HAP is a basis upon which HUD approves or disapproves assisted housing in the grantee's jurisdiction and against which HUD monitors a grantee's provision of assisted housing.

(c) *Grantee's responsibility.* Each grantee is responsible for implementing its HAP expeditiously. This includes the timely achievement of goals for assisted housing. Each grantee is expected to use all available resources and, when needed, to take all actions within its control to implement the approved HAP. Performance under the HAP is one of the factors considered in grantee performance reviews conducted as provided in Subpart O of this Part. Subpart O also provides further requirements relating to the responsibility of the grantee in implementing its HAP.

(d) *General.*

(1) The HAP consists of the five components described in paragraph (e). The HAP shall be submitted to HUD by an authorized representative of the grantee.

(2) Each city or county which expects to receive an Entitlement grant shall submit a HAP between September 1 and October 31 prior to its submission of the final statement required by § 570.302 of this Part. The HAP will be considered in effect from October 1 through September 30 for purposes of crediting performance against the goals established regardless of the specific date that HUD approves the HAP. A grantee which has a three

year goal which will be in effect for the fiscal year in which the final statement is to be submitted need only submit an annual goal and may incorporate by reference (to the extent that there have been no significant changes) the other required portions of the HAP.

(3) Any newly entitled community which was not made aware of its entitlement status by August 31 shall be considered unable to comply with the October 31 deadline and may submit an interim HAP in accordance with the requirements of paragraph (e)(6) of this section in lieu of the requirements of paragraphs (e)(1) through (e)(5).

(4) *For Fiscal Year 1983 Only:* Any Entitlement grantee which has not submitted a HAP for Fiscal Year 1983 must do so no later than 60 days from the effective date of this rule.

(e) *Housing conditions, needs, goals, and locations.*

(1) *Conditions.* The grantee shall describe the condition of the current housing stock in the community by providing a statistical profile (including an identification of data sources and data time frames) by tenure type (renter and owner), which describes housing conditions by the number of occupied and vacant units in standard and substandard condition. The grantee shall develop its own definition of substandard housing which, at a minimum, shall include units which do not meet the Section 8 Existing Housing Quality Standards (24 CFR 882.109) and shall include such definition in its submission. In addition, the grantee shall identify the number of its occupied and vacant substandard housing units which it considers to be suitable for rehabilitation, and include its definition of suitable for rehabilitation in the HAP submission.

(2) *Needs.*

(i) The grantee shall assess the housing assistance needs of lower income households currently residing in the community by tenure and, for households requiring rental subsidies, by household type (elderly, small family and non-elderly individuals, and large family), including households expected to be involuntarily displaced by public and private action over the three year period of the HAP. The grantee shall also assess the housing assistance needs of lower income households that could reasonably be expected to reside in the community. Such households are those that could be expected to reside in the community as a result of existing and projected employment opportunities or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and the estimate shall consider changes in

population known to have occurred since the last Census. For elderly households, the estimate of those that are expected to reside in the community must be based on the number known to be seeking assisted housing in the community or using the community's health services. In no case shall the estimate of all households expected to reside be less than zero.

(ii) A narrative statement accompanying the needs shall indicate the composition of the needs of lower income persons including separate numerical estimates, by tenure and household type, for households to be involuntarily displaced, households expected to reside, and total minority households. This narrative statement shall also include the source and date of the data used in developing the needs assessment. In addition, the narrative shall include a description which summarizes any special housing conditions and/or any special housing needs of particular groups of lower income households in the community. Such description shall include but need not be limited to, discussion of the special housing needs and/or conditions of:

- (A) Individual minority groups;
- (B) Impact of conversion of rental housing to condominium or cooperative ownership;
- (C) Handicapped persons; and
- (D) Single heads of household.

All handicapped single person households (elderly and nonelderly) as well as two person households which include one elderly person and one handicapped person, must be included in the elderly category, but separately identified in the narrative. All other nonelderly handicapped persons must be included with small or large family households, according to the size of their households.

(3) *Three year goal.*

(i) The grantee shall specify a realistic three year goal by tenure type for goals which are designed to improve the condition of the housing stock, and also by household type for the number of households to be assisted with rental subsidies. The three year goal must include all assisted housing resources which can be expected to be available to the grantee. In addition, the grantee shall identify the maximum number of HUD assisted rental units it will accept during that three year period of each housing type (for example, new, rehabilitation, existing) in an amount at least equal to the total number of HUD assisted rental goals by household type.

(ii) Goals relating to improving the condition of the housing stock should be

based on an evaluation of the data presented in the housing conditions portion of the HAP as well as other current data available to the grantee.

(iii) The goals relating to households to be assisted with rental subsidies must be proportional to need by household type, except that HUD may approve or require a different proportion in cases of:

- (A) Disproportionate provision of assisted housing under a previous HAP;
- (B) Significant displacement of a particular household type;
- (C) Adjustments for projects of feasible size;
- (D) Natural disasters; or
- (E) Meeting the requirements of 105 (f) and (h) of the Housing Act of 1949, as amended (42 U.S.C. 1450 et seq.).

(iv) The majority of goals for the rehabilitation of dwelling units must assist lower income households. For this purpose, publicly assisted rehabilitation of a dwelling unit shall be deemed to assist a lower income household when the dwelling unit, after rehabilitation, is owned and occupied by, or if rented, is occupied at affordable rents by, a lower income household.

(v) Each grantee shall include a narrative describing those specific actions which the grantee will take to address any special housing conditions or needs identified in § 570.308(e)(2)(ii) above as well as any actions determined necessary to ensure the timely achievement of its three year goals (including a discussion of any expected or known impediments and planned remedies).

(4) *Annual goal.*

(i) The grantee shall specify an annual goal which must include all assisted housing resources which can be expected to be available to the grantee; be established considering feasible project size; and constitute reasonable progress towards meeting the three year goal. In addition, the grantee shall indicate its preference for the distribution of HUD's assisted rental housing by housing type (for example, new, rehabilitation, existing).

(ii) In its annual goal, the grantee shall also describe the specific actions (including any new problems encountered and planned remedies) it will take during the year to meet its annual goal and, as appropriate, its three year goal. The grantee must also include a description of the provisions that it will make to assure that a majority of dwelling units to receive rehabilitation subsidy will assist lower income households.

(5) *General locations.*

(i) A grantee having goals for new construction or substantial rehabilitation shall identify general locations of proposed projects with the objective of furthering community revitalization, promoting housing opportunity, enabling persons that are to be involuntarily displaced to remain in their neighborhoods, avoiding undue concentrations of assisted housing in areas containing high proportions of lower income persons, and assuring the availability of public facilities and services.

(ii) The grantee may, at its option, designate any of the general locations identified pursuant to subparagraph (5)(i) above as *High Priority areas*. (Under provisions of HUD's assisted housing ranking procedures, a higher rating can be obtained under the ranking criteria with respect to responsiveness of proposed projects to preferences and priorities of applicable HAPs.)

(iii) Each general location identified under subparagraph (5)(i) above must contain at least one site which conforms to the Departmental regulations and policies relating to the site and neighborhood standards established for the appropriate HUD assisted housing program.

(iv) Identification of the general locations must be accomplished by attaching a map to the HAP except that the HUD Field Office may accept a listing where it determines that the development of a map would present a hardship for the grantee.

(6) *Interim HAP.* A newly entitled grantee which has not been notified by HUD in sufficient time to meet the October 31 HAP submittal deadline (see § 570.306(d)(3)) shall submit an interim HAP at least 45 days prior to the submission of its final statement. Such submission shall include a narrative description of the condition of the housing stock; a narrative assessment of the housing assistance needs of lower income households; a realistic annual goal indicating the number of dwelling units by housing type, and lower income households by household type, to be assisted during the balance of the fiscal year; and a listing of general locations of proposed new construction and substantially rehabilitated housing for lower income persons. This HAP submission will be effective through September 30 of the year in which it is submitted.

(f) *Amendments to the HAP.* The grantee shall notify HUD within 45 days of any changes it makes to its HAP.

(g) *HUD review of HAPs, Interim HAPs, and Amendments.* HUD will review these HAP submissions to assure that the requirements of this regulation

have been met, and will approve them unless the grantee's stated conditions and needs are plainly inconsistent with significant facts or data generally available; the grantee's proposed goals and activities are plainly inappropriate to meeting those conditions or needs; or the HAP fails to comply with other provisions of these regulations. Within 30 days of the date that the submission is received, HUD will notify the grantee in writing that the submission has been approved, disapproved, or that a final decision is still pending (in which case HUD may take no more than 30 additional days to decide whether to approve or disapprove the submission). In the event that HUD has not notified the grantee in writing within 30 days of receipt, the submission shall be considered fully approved.

(The OMB has approved the Housing Assistance Plan, Forms HUD-7091.1 and HUD-7091.2, under No. 2506-0063.)

§ 570.307 Urban counties.

(a) *Determination of qualification.* The Secretary will determine the qualifications of counties to receive entitlements as urban counties upon receipt of qualification documentation from counties at such time, and in such manner and form as prescribed by HUD. The Secretary shall determine eligibility and applicable portions of each eligible county for purposes of fund allocation under section 108 of the Act on the basis of information available from the U.S. Bureau of the Census with respect to population and other pertinent demographic characteristics, and based on information provided by the county and its included units of general local government.

(b) *Qualification as an urban county.* A county will qualify as an urban county if such county meets the definition as § 570.3(x). As necessitated by this definition, the Secretary shall determine which counties have authority to carry out essential community development and housing assistance activities in their included units of general local government without the consent of the local governing body and which counties must execute cooperation agreements with such units to include them in the urban county for qualification and grant calculation purposes.

(c) *Essential activities.* For purposes of this section, the term "essential community development and housing assistance activities" means community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing. In determining whether a county has the

required powers, the Secretary will consider both its authority and, where applicable, the authority of its designated agency or agencies.

(d) *Period of qualification.*

(1) The qualification by HUD of an urban county shall remain effective for three successive federal fiscal years regardless of changes in its population during that period, except as provided under paragraph (f) of this section.

(2) During the period of qualification, no included unit of general local government may withdraw from nor be removed from the urban county for HUD's grant computation purposes, and no unit of general local government covering additional area may be added to the urban county.

(3) If some portion of an urban county's unincorporated area becomes incorporated during the three year urban county qualification period, the newly incorporated unit of general local government shall not be excluded from the urban county nor shall it be eligible for a separate grant under Subparts D, F, or I of this Part until the end of the urban county's current three year qualification period, unless the urban county fails to receive a grant for any year during that qualification period.

(e) *Grant ineligibility of included units of general local government.*

(1) An included unit of general local government cannot become eligible for an Entitlement grant as a metropolitan city during the period of qualification of the urban county (even if it becomes a central city of the metropolitan area or its population surpasses 50,000 during that period). Rather, such a unit of general local government shall continue to be included as an integral part of the urban county for the remainder of the urban county's qualification period, and no separate grant amount shall be calculated for the included unit.

(2) An included unit of general local government which is part of an urban county shall be ineligible to apply for grants under Subpart F, or to be a recipient of assistance under Subpart I, during the entire period of urban county qualification.

(f) *Failure of an urban county to receive a grant.* Failure of an urban county to receive a grant during any year shall terminate the existing qualification of that urban county, and that county shall requalify as an urban county before receiving an Entitlement grant in any successive Federal fiscal year. Such termination shall release units of general local government included in the urban county, in subsequent years, from the prohibition to receive grants under paragraphs

(d)(3), (e)(1) and (e)(2) of this section. For this purpose an urban county shall be deemed to have received a grant upon having satisfied the requirements of sections 104 (a), (b) and (c) of the Act, without regard to adjustments which may be made to this grant amount under sections 104(d) or 111 of the Act.

(g) *Notifications of the opportunity to be excluded.* Any county seeking to qualify for an Entitlement grant as an urban county for any Federal fiscal year shall notify each unit of general local government which is located, in whole or in part, within the county and which would otherwise be included in the urban county, but which is eligible to elect to have its population excluded from that of the urban county, that it has the opportunity to make such an election, and that such an election, or the failure to make such an election, shall be effective for the three year period for which the county qualifies as an urban county. These notifications shall be made by a date specified by HUD. A unit of general local government which elects to be excluded from participation as a part of the urban county shall notify the county and HUD in writing by a date specified by HUD.

§ 570.308 Joint requests.

(a) *Joint requests and cooperation agreements.*

(1) Any urban county and any metropolitan city located, in whole or in part, within that county may submit a joint request to HUD to approve the inclusion of the metropolitan city as a part of the urban county for purposes of planning and implementing a joint community development and housing program. Such a joint request shall only be considered if submitted at the time the county is seeking its three year qualification or requalification as an urban county. Such a joint request shall, upon approval by HUD, remain effective for the period for which the county is qualified as an urban county. An urban county may be joined by more than one metropolitan city, but a metropolitan city located in more than one urban county may only be included in one urban county for any program year. A joint request shall be deemed approved by HUD unless HUD notifies the city and the county of its disapproval and the reasons therefore within 30 days of receipt of the request by HUD.

(2) Each metropolitan city and urban county submitting a joint request shall submit an executed cooperation agreement to undertake or to assist in the undertaking of essential community development and housing assistance activities, as defined in § 570.307(c).

(b) *Joint grant amount.* The grant amount for a joint recipient shall be the sum of the amounts authorized for the individual Entitlement grantees, as described in section 106 of the Act. The urban county shall be the grant recipient.

(c) *Effect of inclusion.* Upon urban county qualification and HUD approval of the joint request and cooperation agreement, the metropolitan city shall be considered a part of the urban county for purposes of program planning and implementation for the period of the urban county qualification, and shall be treated the same as any other unit of general local government which is a part of the urban county.

(d) *Submission requirements.* In requesting a grant under this Part, the urban county shall make a single submission which meets the submission requirements of this Subpart D and covering all members of the joint recipient.

8. Subpart K of Part 570 is revised to read as follows:

Subpart K—Other Program Requirements

§ 570.600 General

(a) Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary, among other things, that the grant "will be conducted and administered in conformity with Pub. L. 88-352 and Pub. L. 90-284," and, further, that the grantee "will comply with the other provisions of this title and with other applicable laws." Section 104(d)(1) of the Act requires that the Secretary determine with respect to grants made pursuant to section 106(b) (Entitlement Grants) and 106(d)(2)(B) (HUD-Administered Small Cities Grants), at least on an annual basis, among other things, "whether the grantee has carried out [its] certifications in compliance with the requirements and the primary objectives of this title and with other applicable laws * * *." Certain other statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. Certain statutes or Executive Orders which may be applicable to activities assisted under the Act by their own terms are administered or enforced by governmental departments or agencies other than the Secretary or the Department. This Subpart K enumerates laws which the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to

States made pursuant to section 106(d) of the Act, for purposes of the determinations described above to be made by the Secretary under section 104(d)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws which the Secretary will treat as applicable to grants made to States under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(d)(2) of the Act, see § 570.496.

(b) This Subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (Subparts D and F of this Part, respectively), the requirements of this Subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (Subparts E and G, respectively).

§ 570.601 Pub. L. 88-352 and Pub. L. 90-284; Executive Order 11063.

Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary that the grant "will be conducted and administered in conformity with Pub. L. 88-352 and Pub. L. 90-284." Similarly, section 107 provides that no grant may be made under that section (Secretary's Discretionary Fund) or section 119 (UDAG) without satisfactory assurances to the same effect.

(a) "Pub. L. 88-352" refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 of the Civil Rights Act of 1964 directs each Federal department and agency empowered to extend Federal financial assistance to any program or activity by way of grant to effectuate the foregoing prohibition

by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the statute authorizing the financial assistance. HUD regulations implementing the requirements of Title VI with respect to HUD programs are contained in 24 CFR Part 1.

(b) "Pub. L. 90-284" refers to Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), popularly known as the Fair Housing Act, which provides that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, or national origin. Title VIII further requires the Secretary to administer the programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of Title VIII. Pursuant to this statutory direction, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing.

(c) Executive Order 11063, as amended by Executive Order 12259, directs the Department to take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Federal Government. HUD regulations implementing Executive Order 11063 are contained in 24 CFR Part 107.

§ 570.602 Section 109 of the Act.

(a) Section 109 of the Act requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. For purposes of this section "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient, or by any unit of government, subrecipient,

or private contractor receiving community development funds or loans from the recipient. "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants or proceeds from HUD guaranteed loans have been transferred by the recipient or a subrecipient to an identifiable administrative unit and disbursed in a program or activity.

(b) *Specific discriminatory actions prohibited and corrective actions.*

(1) A recipient may not, under any program or activity to which the regulations of this Part may apply directly or through contractual or other arrangements, on the ground of race, color, national origin, or sex:

(i) Deny any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.

(iii) Subject to segregated or separate treatment in any facility in, or in any matter of process related to receipt of any service or benefit under the program or activity.

(iv) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which the individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an opportunity to participate in a program or activity as an employee.

(2) A recipient may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities provided in whole or in part with funds under this part, may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the

ground of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and of this section.

(4)(i) In administering a program or activity funded in whole or in part with CDBG funds regarding which the recipient has previously discriminated against persons on the ground of race, color, national origin or sex, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program or activity funded in whole or in part with CDBG funds should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex. Where previous discriminatory practice or usage tends, on the ground of race, color, national origin or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.

(iii) A recipient shall not be prohibited by this part from taking any action eligible under Subpart C to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage.

(5) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the services.

(c) Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

§ 570.603 Labor Standards.

Section 110 of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). By reason of the foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) also applies. However, these requirements apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families. With respect to the labor standards specified in this section, the Secretary of Labor has the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 1332-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

§ 570.604 Environmental standards.

Section 104(f) expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) ~~shall be most effectively implemented in connection with the expenditure of funds under~~ the Act. Such other provisions of law which further the purposes of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to section 104(f) of the Act and contained in 24 CFR Part 58. Section 104(f) also provides that, in lieu of the environmental protection procedures otherwise applicable, the Secretary may under regulations provide for the release of funds for particular projects to grantees who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, and the other provisions of law specified by the Secretary as described above, that would apply to the Secretary were he/she to undertake such projects as Federal projects. Grantees assume such environmental review, decisionmaking, and action responsibilities by execution of grant agreements with the Secretary. The procedures for carrying out such environmental responsibilities are contained in 24 CFR Part 52.

§ 570.605 National Flood Insurance Program.

Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4102) provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 2(a) of said Act (42 U.S.C. 4002(a)), or, and after July 1, 1975 (or one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, whichever is later, for use in any area that has been identified by the Director of the Federal Emergency Management Agency (see Section 202 of Reorganization Plan No. 6 of 1973, 43 FR 41943) as an area having special flood hazards under the community in which such area is situated is then participating in the National Flood Insurance Program. Notwithstanding the date of HUD approval of the recipient's application for in the case of grants made under Subpart D, the date of submission of the grantee's final statement pursuant to § 570.302), funds provided under this Part shall not be expended on or after July 1, 1975, or one year after a community has been formally notified, whichever is later, for acquisition or construction purposes in an area so identified as having special flood hazards which is located in a community not in compliance with the requirements of the National Flood Insurance Program pursuant to section 204(d) of said Act (42 U.S.C. 4105(d)). The use of any funds provided under this part for acquisition or construction purposes in identified special flood hazard areas shall be subject to the mandatory purchase of flood insurance requirements of section 102(a) of said Act (42 U.S.C. 4012a).

§ 570.606 Relocation and acquisition.

(a) Section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630) (the "Uniform Act") provides that the head of a Federal agency shall not approve any grant to, or contract or agreement with, a "State agency" (as defined in Section 101 of the Uniform Act, 42 U.S.C. 4601, and 24 CFR 42.85 which includes any department, agency or instrumentality of a State or of a political subdivision of a State) under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any persons, unless he/she receives satisfactory assurance from such State agency that certain requirements of the Uniform Act with

respect to relocation payments and assistance will be met. Such assurance will be provided in the grant agreement executed by the grantee (see § 570.302(b)). The requirements of the Uniform Act and HUD implementing regulations (24 CFR 59.42) apply to any acquisition of real property by a "State agency" that is carried out with the intention that such acquisition be for a community development activity assisted under this Part and to the displacement of any family, individual, business, nonprofit organization, or farm that results from such acquisition.

(1) Any acquisition of real property by a "State agency" and any displacement resulting from such acquisition of real property shall be considered to be for an activity assisted under the CDEG program and to be subject to the regulations at 24 CFR Part 42 if the acquisition or displacement occurs on or after the date of the submission of the application requesting Federal financial assistance which is granted for a activity for which the acquisition has been or will be undertaken (or, in the case of a grant made pursuant to Subpart D, the date of submission of the grantee's final statement pursuant to § 570.302). However, if the recipient determines that any acquisition or displacement was not carried out for an assisted activity, and the HUD Area Office serving the locality concurs in that determination, such acquisition or displacement shall not be subject to these regulations. The recipient's request for HUD concurrence shall include its certification that at the time of the acquisition, it did not intend to use the property for an assisted activity and appropriate documentation to establish that fact.

(2) The recipient or HUD, which shall monitor compliance with the Uniform Act, may determine if an acquisition prior to submission of an application for financial assistance (or final statement) and any resulting displacement were carried out for an assisted activity and are subject to these regulations. In the absence of such a determination by the recipient or HUD, any such acquisition or displacement occurring prior to submission of an application (or final statement) shall not be subject to these regulations. The recipient may at any time request a HUD determination as to whether or not such an acquisition and any resulting displacement are considered to be for an assisted activity and to be subject to these regulations. The request shall be submitted to the HUD Area Office and shall include appropriate background documentation.

(3) If the owner or occupant of a property disagrees with the recipient's determination that the Uniform Act and regulations at 24 CFR Part 42 do not apply to the acquisition of the property or to a displacement resulting from the acquisition, he/she may file an appeal under 24 CFR Part 42 Subpart J (Appeals), whether or not the acquisition or displacement occurs before or after submission of the application for financial assistance (or final statement). The specific payments and other assistance for which an appeal may be filed are set forth in 24 CFR 42.703(a).

(4) The costs of relocation payments and assistance under Title II of the Uniform Act shall be paid from funds provided by this Part and/or such other funds as may be available by the locality from any source.

(b) Pursuant to section 105(a)(11) of the Act, the grantee may also provide relocation payments and assistance for individuals, families, businesses, nonprofit organizations and farm operations displaced by an activity that is not subject to the Uniform Act, and also may provide relocation payments and other assistance at levels above those established under the Uniform Act. Unless such payments and assistance are made pursuant to State or local law, the recipient shall make such payments only upon the basis of a written determination that such payments are appropriate (see § 570.201(i)) and shall adopt a written policy available to the public setting forth the relocation payments and assistance it elects to provide and providing for equal payments and assistance within each class of displacees.

(c) Section 305 of the Uniform Act (42 U.S.C. 4655) provides that the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property unless he/she receives satisfactory assurances from such State agency that: (1) In acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 301 of the Uniform Act (42 U.S.C. 4651) and the provisions of section 302 thereof (42 U.S.C. 4651) and (2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of the Uniform Act (42 U.S.C. 4653, 4654). Appropriate assurances to such effect

will be provided in the grant agreement executed by the grantee.

§ 570.607 Employment and contracting opportunities.

(a) ~~Grantees~~ shall comply with Executive Order 11246 and the regulations issued pursuant thereto (41 CFR Chapter 60) which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on Federal or federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) requires, in connection with the planning and carrying out of any project assisted under the Act, that to the greatest extent feasible opportunities for training and employment be given to lower income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county) in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project. Grantees shall adopt appropriate procedures and requirements to assure good faith efforts toward compliance with the statutory directive. HUD regulations at 24 CFR Part 135 are not directly applicable to activities assisted under this Part but may be referred to as guidance indicative of the Secretary's view of the statutory objectives in other contexts.

§ 570.608 Lead-based paint.

(a) Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance in any form. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures constructed or rehabilitated with assistance provided under this Part.

(b) Section 302 of the Lead-Based Poisoning Prevention Act (42 U.S.C. 4822) directs the Secretary to establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Pursuant to such authority and the Secretary's general rulemaking authority, the Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C, and requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1950 at 24 CFR Part 35, Subpart A. The requirements of 24 CFR Part 35, Subpart A, are applicable to purchasers and tenants of residential structures constructed prior to 1950 and assisted under this Part, and the requirements of 24 CFR Part 35, Subpart C, are applicable to existing residential structures which are rehabilitated with assistance provided under this Part.

§ 570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.

CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

~~**§ 570.610 Uniform administrative requirements and cost principles.**~~

~~The recipient, its agencies or instrumentalities and subrecipients shall comply with the policies, guidelines, and requirements of OMB Circular Nos. A-102, Revised A-110, A-87, and A-122, as applicable, as they relate to the acceptance and use of Federal funds under this Part.~~

~~**§ 570.611 Conflict of interest.**~~

~~(a) Applicability.~~
~~(1) In the procurement of supplies, equipment, construction, and services by recipients, and by subrecipients (including those specified at § 570.204(e)), the conflict of interest provisions in Attachment O of OMB Circulars A-102, and A-110, respectively, shall apply.~~
~~(2) In all cases not governed by Attachment O of the OMB Circulars, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient.~~

by its subrecipients, or to individuals, businesses and other private entities under eligible activities which authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties of facilities pursuant to § 570.203, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to §§ 570.203, 570.204 or 570.455).

(b) *Conflicts prohibited.* Except for approved eligible administrative or personnel costs the general rule is that no persons described in paragraph (c) below who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Part or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or of any designated public agency or subrecipient under § 570.204, which are receiving funds under this Part.

(d) *Exceptions threshold requirements.* Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this

section, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§ 570.642 Displacement

(a) *Definition.* "Displacement" means the involuntary movement, except temporary relocation, of a household from a dwelling unit resulting from its acquisition, rehabilitation, or demolition when: (1) Funded in whole or in part with CDBG funds; or (2) funded with non-CDBG funds where the acquisition, rehabilitation, or demolition is a prerequisite for an activity carried out with CDBG funds (e.g., acquisition of land with local funds for a neighborhood facility to be constructed with CDBG funds). "Displacement" also means the involuntary movement, except temporary relocation, of a household from a dwelling unit necessitated by CDBG assisted code enforcement.

(b) *General policy.* Section 902 of the Housing and Community Development Amendments of 1974 (Pub. L. 93-557) provides that in the administration of Federal housing and community development programs, consistent with other program objectives and goals, involuntary displacement of persons from their neighborhoods should be minimized. This general policy is implemented in the Entitlement grant program through the requirements of § 570.205. It is implemented in the HUD-administered Small Cities program by

means of selection criteria described in § 570.424(e) and § 570.438(e), and in the Urban Development Action Grant program by means of the selection criterion described in § 570.454(h).

7. Subpart M of Part 570 is revised to read as follows:

Subpart M—Loan Guarantees

§ 570.700 Eligible applicants.

(a) Units of general local government entitled to receive a grant under section 108(b) of the Act (metropolitan cities and urban counties) may apply for loan guarantee assistance under this Subpart.

(b) Public agencies may be designated by eligible units of general local government to receive a loan guarantee on notes or other obligations issued by the public agency in accordance with this Subpart. In such case the applicant unit of general local government shall be required to pledge its current and future grants under Title I as security for the notes or other obligations issued by the public agency.

§ 570.701 Eligible activities.

Loan guarantee assistance under this Subpart may be utilized for the following activities undertaken by the unit of general local government or its designated public agency, provided such activities are otherwise eligible under the provisions of § 570.201 through § 570.203 and meet the requirements of § 570.200.

(a) Acquisition of improved or unimproved real property in fee or by long-term lease, including acquisition for economic development purposes.

(1) Acquisition for economic development purposes may include agreements for the purchase of real property to be improved by the seller prior to the acquisition. Obligations to purchase under such agreements may be contingent on the procurement of interim financing by the seller, and may provide for a leaseback of the improved property to the seller, including an option to purchase after full payment of the loan guaranteed under this Subpart.

(2) In the purchase of real property pursuant to paragraph (a)(1) of this section, the assisted activity includes the acquisition and/or improvements undertaken by the seller in whole or in part with interim financing obtained in reliance on the obligation to purchase the improved property with guaranteed loan funds. The agreement described in paragraph (a)(1) of this section shall specify that the obligation to purchase is contingent on compliance in the undertaking of interim financed activities with the requirements

applicable to activities assisted under this Subpart.

(b) Rehabilitation of real property owned or acquired by the unit of general local government or its designated public agency.

(c) Payment of interest on obligations guaranteed under this Subpart.

(d) Relocation payments and assistance for individuals, families, businesses, nonprofit organizations and farm operations displaced as a result of activities financed with loan guarantee assistance.

(e) Clearance, demolition and removal, including movement of structures to other sites, of buildings and improvements on real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

(f) Site preparation, including construction, reconstruction, or installation of public improvements, utilities, or facilities (other than buildings) related to the redevelopment or use of the real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

§ 570.702 Application requirements.

(a) Presubmission requirements.

(1) Prior to submission of an application for loan guarantee assistance to HUD, the applicant must comply with the presubmission requirements specified in § 570.301 with respect to the activities proposed for loan guarantee assistance.

(2) If an application for loan guarantee assistance is simultaneous with the applicant's submission for its entitlement grant, the applicant may utilize the statement of community development objectives and projected use of funds prepared for its annual grant pursuant to § 570.301 by including and identifying the activities to be undertaken with the guaranteed loan funds.

(b) Submission requirements. An application for loan guarantee assistance shall be submitted to the appropriate HUD Area Office and shall consist of the following:

(1) A copy of the applicant's final statement of community development objectives and projected use of guaranteed loan funds.

(2) A description of how each of the activities to be carried out with the guaranteed loan funds meets one of the standards in § 570.901(b).

(3) A schedule for repayment of the loan which identifies the sources of repayment.

(4) A certification providing assurance that the applicant possesses legal authority to make the pledge of grants required under § 570.703(b)(2).

(5) Certifications required pursuant to § 570.303. For the purposes of this requirement, the terms "grant" and "CDBG" in such certifications shall also mean loan guarantee.

(c) Economic feasibility and financial risk. The Secretary will make no determination with respect to the economic feasibility of projects proposed to be funded with the proceeds of guaranteed loans; such determination is the responsibility of the applicant. In determining whether a loan guarantee constitutes an acceptable financial risk, the Secretary will consider the applicant's current and future entitlement block grants as the primary source of loan repayment. Approval of a loan guarantee under this Subpart is not to be construed, in any way, as indicating that HUD has agreed to the feasibility of a project beyond recognition that block grant funds should be sufficient to retire the debt.

(d) HUD review and approval of applications.

(1) HUD will normally accept the grantee's certifications. The Secretary reserves the right, however, to consider relevant information which challenges the certifications and to require additional information or assurances from the grantee as warranted by such information.

(2) The Area Office shall review the application for compliance with requirements specified in this Subpart and forward the application together with its recommendation for approval or disapproval of the requested loan guarantee to HUD Headquarters.

(3) The Secretary may disapprove an application, or may approve loan guarantee assistance for an amount less than requested, for any of the following reasons:

(i) The Secretary determines that the guarantee constitutes an unacceptable financial risk. Factors that will be considered in assessing financial risk shall include, but not be limited to, the following:

(A) The length of the proposed repayment period;

(B) The ratio of expected annual debt service requirements to expected annual grant amount;

(C) The applicant's status as a metropolitan city or urban county during the proposed repayment period; and

(D) The applicant's ability to furnish adequate security pursuant to § 570.703(b).

(ii) The guarantee requested exceeds the maximum loan amount specified under § 570.703(a).

(iii) Funds are not available in the amount requested.

(iv) The applicant's performance does not meet the standards prescribed in § 570.909.

(v) Activities to be undertaken with the guaranteed loan funds are not listed as eligible under § 570.201 through § 570.203 and § 570.701 (a) through (f).

(4) The Secretary will notify the applicant in writing that the loan guarantee request has either been approved, reduced or disapproved. If the request is reduced or disapproved, the applicant shall be informed of the specific reasons for reduction or disapproval. If the request is approved, the Secretary shall issue an offer of commitment to guarantee obligations of the applicant or the designated public agency subject to such conditions as the Secretary may prescribe, including the conditions for release of funds described in paragraph (e).

(e) Environmental review. The applicant shall comply with HUD environmental review procedures (24 CFR Part 56) leading to certification for the release of funds for each project carried out with loan guarantee assistance. These procedures set forth the regulations, policies, responsibilities and procedures governing the carrying out of environmental review responsibilities of applicants.

For the purposes of this paragraph, the "release of funds" shall be deemed to occur at the time of guarantee of notes or other obligations by the Secretary.

§ 570.703 Loan requirements.

(a) Maximum loan amount. No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations guaranteed under this Subpart on behalf of the applicant and each public agency duly designated by the applicant would thereby exceed an amount equal to three times the amount of the entitlement grant made pursuant to § 570.304 to the applicant.

(b) Security requirements. To assure the repayment of notes or other obligations and charges incurred under this Subpart and as a condition for receiving loan guarantee assistance, the applicant (or the applicant and designated public agency, where appropriate) shall:

(1) Enter into a contract with HUD, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(2) Pledge any grant made or for which the applicant may become eligible under this Part; and

(3) Furnish, at the discretion of the Secretary, such other security as may be

deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Part or disposition proceeds from the sale of land or rehabilitated property.

(c) *Use of grants for loan repayment.* Notwithstanding any other provision of this Part:

(1) Grants allocated to an applicant under this Part (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be authorized by the Secretary) on the notes or other obligations guaranteed pursuant to this Subpart.

(2) The Secretary may apply grants pledged pursuant to paragraph (b)(2) of this section to any amounts due under the note or other obligation guaranteed pursuant to this Subpart, or to the purchase of such obligation, in accordance with the terms of the contract required by paragraph (b)(1) of this section.

(d) *Debt obligations.* Notes or other obligations guaranteed pursuant to this Subpart shall be in the form and denominations prescribed by the Secretary. Such notes or other obligations shall be issued and sold only to the Federal Financing Bank under such terms as may be prescribed by the Secretary and the Federal Financing Bank.

(e) *Taxable obligations.* Interest earned on obligations guaranteed under this Subpart shall be subject to Federal taxation as provided in section 108(j) of the Act.

All applicants or designated public agencies issuing guaranteed obligations must bear the full cost of interest.

(f) *Loan repayment period.* As a general rule, the repayment period for a loan guaranteed under this Subpart shall be limited to six years. However, a longer repayment period may be permitted in special cases where it is deemed necessary to achieve the purposes of this Part.

§ 570.704 Federal guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this Subpart. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

§ 570.705 Applicability of rules and regulations.

The provisions of Subparts A, C, D, J, K and O shall apply to this Subpart, except to the extent they are specifically modified or augmented by the provisions of this Subpart.

8. Subpart O of Part 570 is revised to read as follows:

Subpart O—Program Management

• • • • •

§ 570.901 Review for compliance with primary objectives.

(a) *General.* The Secretary will review each applicable grantee's performance to determine whether the grantee has complied with the requirements under § 570.200(a)(2).

(b) *Standards.* In determining whether each of the grantee's funded activities meets one of the broad national objectives contained in its certification, the Secretary will consider whether the activity falls within one of the following standards:

(1) *Activities benefiting low and moderate income persons.* The following activities, in the absence of substantial evidence to the contrary, will be considered to benefit low and moderate income persons. In determining whether an activity will actually benefit low and moderate income persons, the net effect of the completed activity shall be considered. Thus, mere location of an activity in a low or moderate income area, while generally a primary consideration, does not conclusively demonstrate that the activity benefits low and moderate income persons. Further, the grantee shall appropriately ensure that activities that meet this standard do not benefit moderate income persons to the exclusion of low income persons.

(i) Any activity, other than residential rehabilitation, which is designed so that at least a majority of the beneficiaries are low and moderate income persons. The following are examples of activities which meet this standard:

(A) An activity, other than residential rehabilitation, which serves an area, delineated by the recipient, where a majority of the residents are low and moderate income persons. Such an area need not be coterminous with census tract boundaries.

(B) Economic development activities designed to create or retain permanent jobs, the majority of which are available or will be available to low and moderate income persons. Jobs are considered to be available to low and moderate income persons based on the nature and extent of the skills, education, and experience required to qualify for the

jobs, training opportunities which would make such jobs available to low and moderate income persons who would not otherwise qualify, advertising and recruiting efforts directed toward low and moderate income persons, and the accessibility of the jobs to areas where substantial numbers of low and moderate income persons reside.

(C) A facility, such as a senior center, which is used principally by low and moderate income persons. A facility that is designed for and used by senior citizens or the handicapped will be presumed to meet this standard.

(D) An activity which has income eligibility requirements that limit the benefits of the activity to low and moderate income persons.

(E) General improvements to a neighborhood business area which serves a primarily residential area with a majority of low and moderate income persons. General improvements include, but are not limited to, street and related improvements, walkways, parking facilities, and facade improvements.

(F) Assistance to a specific business which provides services primarily to residents of an area with a majority of low and moderate income persons.

(ii) A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements.

(iii) An activity which must be carried out prior to or as an integral part of an activity which will principally benefit low and moderate income persons, where the cost of the assisted activity is not unreasonable in relation to the low and moderate income benefit to be provided. An example is the extension of water and sewer lines to permit construction of lower income housing.

(iv) Rehabilitation of a residential structure occupied by low and moderate income persons. Where such a structure contains more than one dwelling unit, it will be considered to qualify under this standard if, following rehabilitation, the majority of the units are occupied by low and moderate income persons at affordable rents. A grantee shall adopt and make public its criteria for determining "affordable rents" for this purpose.

(v) An eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly housing project where at least 20 percent of the units will be occupied by low and moderate income households; except that, in the case of a project

where less than a majority of the units will be so occupied, the portion of total development cost of the project to be borne by CDBG funds may be no greater than the proportion of the total number of units in the project which will be occupied by low and moderate income households.

(vi) An activity that serves an area having less than a majority of low and moderate income persons will also be considered to meet the objective of benefiting low and moderate income persons where the grantee community has no areas within its jurisdiction where low and moderate income persons constitute a majority, or the grantee has so few such areas or that such areas are so small that it is plainly inappropriate to address the needs of its low and moderate income residents by limiting funded activities to such areas. In such circumstances, the activity must:

(A) Serve an area that is among those having the largest proportion of low and moderate income persons in the grantee's jurisdiction. Beginning with the program year funded from Federal Fiscal Year 1985 appropriations, only areas that are within the upper one-fourth of all areas of the grantee's jurisdiction in terms of degree of concentration of low and moderate income persons will be considered to meet this test;

(B) Clearly meet the needs of low and moderate income persons in the area; and

(C) Benefit low and moderate income persons at least in proportion to their share of the population in the area the activity serves.

(2) *Activities which aid in the prevention or elimination of slums or blight.* The following activities, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(i) *Activities in a slum or blighted area*

(A) *Definition of a slum or blighted area.* An area delineated by the grantee:

(1) Which meets a definition of a slum, blighted, deteriorated, or deteriorating area under State or local law; and

(2) Where there is a substantial number of deteriorating or dilapidated buildings or improvements throughout the area.

(B) *Qualifying activities.* In order for an activity to qualify under this standard, it must be designed to address one or more of the conditions which qualified the area. Residential rehabilitation will be considered to meet this standard only where each structure rehabilitated is considered substandard under local definition before

rehabilitation. At a minimum, this definition must include units which do not meet the Existing Housing Quality Standards (24 CFR 882.109). Also, in cases where all deficiencies making a structure substandard are eliminated, this standard permits assistance for less critical work on that structure. (Note: Despite this restriction, any rehabilitation activity which benefits low and moderate income households, as described in paragraph (b)(1)(iv) of this section, can be undertaken without regard to the area in which it may be located or the extent of rehabilitation assisted.)

(C) *Documentation.* The grantee must describe in its files the area boundaries, and the conditions of the area at the time of its designation.

(ii) *Activities outside a slum or blighted area.* Acquisition, demolition, rehabilitation, relocation, and historic preservation activities designed to eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area. Under this standard, rehabilitation for other than low and moderate income households is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(iii) *Urban renewal completion.* Activities included in the urban renewal plan most recently approved by HUD under Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 *et seq.*) which are necessary to complete an urban renewal project.

(3) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this standard if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(c) *Area benefit activities.* For purposes of determining compliance with the primary objectives, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(d) *Planning and administrative costs.* Program funds expended for planning and administrative costs under § 570.205

and § 570.206 will be considered to address the primary objectives.

(e) *Transition provision.*

(1) *Continuation of projects approved under past rules.* Activities carried out with CDBG funds from any year (including those carried out with funds awarded in Federal Fiscal Year 1982 and thereafter) which are integral components of projects approved by HUD in program years 1979, 1980 and 1981 will be considered to address the primary objectives if such projects meet criteria set forth at 24 CFR 570.302 (d), (e) or (f) under regulations published on August 27, 1979 (44 FR 50261).

(2) *All other activities.* Activities for which CDBG funds are obligated within 120 days of the effective date of this rule will be considered to address the primary objectives if such activities meet either the standards of this section or the criteria set forth at 24 CFR 570.302 (d), (e), or (f) under regulations published on August 27, 1979 (44 FR 50261).

(f) *Appropriateness to furthering primary objective.*

(1) Notwithstanding that each of a grantee's funded activities may comply with one of the standards contained in paragraph (b) of this section, the Secretary may determine that an entitlement grantee's use of funds, taken as a whole, is plainly inappropriate to furthering the primary objective of the Act.

(2) If a majority of funds expended during a period reported upon by a grantee in a performance report submitted to the Secretary has been expended on activities which meet the standard identified in paragraph (b)(1) of this section, the grantee's use of funds taken as a whole will not be subject to further examination with respect to whether the grantee's use of funds, taken as a whole, is plainly inappropriate to furthering the primary objective of the Act. If a majority of funds expended during a reporting period has not been expended on activities meeting such standard, the grantee's performance will be subject to further examination taking into consideration, among other factors, the extent to which funded activities undertaken in prior years have been directed to the needs of low and moderate income persons.

(3) In determining the proportion of funds expended for activities meeting the standard identified in paragraph (b)(1) of this section for purposes of applying the review standard prescribed in the first sentence of subparagraph (2) above:

(i) Cost of administration and planning cited in § 570.205 and § 570.206 will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the grant, and, accordingly, shall be excluded from the calculation;

(ii) Funds expended for repayment of urban renewal temporary loans shall also be excluded.

(g) *Determination of failure of compliance.* If the Secretary determines that an activity does not meet any of the standards identified in paragraph (b) of this section or that an Entitlement

grantee's use of funds, taken as a whole, is plainly inappropriate to furthering the primary objective of the Act, the grantee will be notified and provided a reasonable opportunity to demonstrate to the satisfaction of the Secretary that the activity questioned addresses one of the broad national objectives or that the Entitlement grantee's use of funds has been carried out to further the primary objective of the Act. Failure to so demonstrate will be cause for the Secretary to determine, pursuant to Section 104(d)(1) of the Act, that the grantee has failed to carry out its

activities and its certifications in accordance with the primary objectives of the Act.

• • • • •

(Title I, Housing and Community Development Act of 1974, as amended '42 U.S.C. 5301 *et seq.*) and Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: September 16, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-25749 Filed 9-22-83, 8:45 am]

BILLING CODE 4210-29-M

APPENDIX D

U.S. Department
of
Housing and Urban Development (HUD)
Office of Community Planning
and Development

Operating Instructions for the
State CDBG Program

February 17, 1984

The following guidelines were issued by HUD to its regional offices to guide HUD and State CDBG staffs in responding to the new requirements established by the Urban-Rural Recovery Act passed in November, 1983. These guidelines should be read in conjunction with the HUD regulations of September 23, 1983 (see Appendix C) to understand the full implications of the revised requirements for the State CDBG Program.

These interpretative guidelines and the companion HUD regulations will be in effect until HUD adopts separate regulations for the State (Non-entitlement) CDBG Program.

PROGRAM DESIGN CONSIDERATIONS

States must consider four major areas changed by the recent amendments: low and moderate income/principal benefit; the community development plan; public participation; and eligibility.

I. Low and Moderate Income Benefit Requirements

A. State Certification for Principal Benefit

Section 101(b) of the 1983 Amendments amends section 104(b)(3) of the Act to require that the State certify that the aggregate use of the CDBG funds it receives, over a specified period, shall principally benefit low and moderate income persons, in that not less than 51 percent of the funds are so used. This principal benefit requirement applies to the total amount of grant funds the State receives during the specified period, rather than to the funds received by each individual recipient. The period used must be specified by the State in its certification and will be defined by grant allocation(s). It may be one, two or three consecutive grants, beginning with the Fiscal Year 1984 allocation. The State's distribution of funds to recipients for activities constitutes the use of funds for the purposes of the certification. The activities must, therefore, be sufficiently identified to establish qualification for the State certification under the applicable standards of §570.901(b)(1) of the regulations. Since we will not know finally if the principal benefit requirement has been satisfied until the funds are totally expended by the recipients, we will have to base our initial judgment on planned benefit, which will be verified when all activities are completed.

If you have already received a Final Statement for FY 84, advise the State to submit this new certification, together with the other additional new certifications, as soon as possible. No grant can be made to the State until all of the required certifications have been submitted to HUD.

B. Definitions of Low and Moderate Income Persons

Previously, States could establish their own definitions of low and moderate income. Now States must use the statutory definition, added by section 102(c) of the 1983 Amendments, in section 102(a)(20), of the Act which defines "persons of low and moderate income" to mean the same as the term "lower income families" in the Section 8 Assisted Housing Program. Figures are provided on a county-by-county basis in nonmetropolitan areas, and on a MSA-by-MSA basis for metropolitan areas for both low and

moderate and low income persons. These figures are available from the Area Economist and should be given to the States as soon as possible.

Since units of general local government may be using surveys, income verification, or census data to document benefit, States will need the current Section 8 income limits for income surveys or verification. If a State intends to use the 1980 census figures as a basis for determining benefit, then it must use the 1979 adjusted Section 8 income limits, since the 1980 census data is based on 1979 incomes. A memorandum dated January 23, 1984 described the procedure for calculating the 1979 adjusted figures.

C. Activities Benefiting Low and Moderate Income Persons

1. Except as otherwise provided under the 1983 Amendments as described below, review standards applicable to activities benefiting low and moderate income persons are set forth in Subpart O of the regulations at section 570.901(b)(1).
 - a. Section 105(c) of the 1983 Amendment adds section 105(c)(1) to the Act which provides that an activity described in sections 105(a)(14) and (17) of the Act will be considered to benefit low and moderate income persons only if it meets the criteria in paragraphs (1), (2), or (3) below:
 - (1) The activity must be carried out in a neighborhood consisting predominantly of persons of low and moderate income and provide services to such persons; (this is equivalent to the examples described in §570.901(b)(1)(i)(E) and (F)); or
 - (2) The activity must involve facilities designed for use predominantly by persons of low and moderate income; (this is equivalent to the example described in §570.901(b)(1)(i)(C)); or
 - (3) The activity must involve employment of persons, a majority of whom are persons of low and moderate income; (this is equivalent to the example described in §570.901(b)(1)(i)(B)).

2. Area Benefit Activities

- a. The current regulations at §570.901(b)(1)(i)(A) establish a general standard by which an activity (other than residential rehabilitation) which serves an area where a majority of the residents are low and moderate income persons, meets the objective of benefit to such persons. States must define or have recipients define what constitutes an area. While the area need not be coterminous with Census tracts or enumeration districts, income data characteristics must be available to demonstrate that at least 51 percent of the residents are low and moderate income.
- b. Section 105(e) of the 1983 Amendments adds an area benefit provision at section 105(c)(2) of the Act:
 - (1) The difference from the current rule is that not less than 51 percent (not just a majority) of the residents of the area must be persons of low and moderate income.
 - (2) The new statutory provision also states that the activity must be "clearly designed to meet identified needs of persons of low and moderate income" in the area. This is essentially equivalent to the language in the second and third sentences of §570.901(b)(1) of the regulations.
- c. The current regulations at §570.901(b)(1)(vi) establish a separate standard for area benefit in exception cases. The new provision at section 105(c)(2)(B) of the Act provides for an exception to the general area benefit requirement but is different in two respects from the current rule.
 - (1) The exception provision applies only to grantees with no areas where 51 percent of the residents are persons of low and moderate income; and
 - (2) The area served by an activity qualifying under this provision must have "a larger proportion of persons of low and moderate income than not less than 75 percent of (all of) the other areas" in the applicant's jurisdiction. For purpose of this requirement, jurisdiction means the entire unit of general local government.

- (3) This rule may be implemented by taking the total number of areas having lower percentages of low and moderate income persons than the area in which the activity would occur, dividing that by the number of all areas (except the area where the activity would occur) and multiplying the result by 100. If the result meets or exceeds 75%, the activity is considered to principally benefit low and moderate income persons.
- d. Clarification of Residential Rehabilitation - The standard at §570.901(b)(1)(iv) requires that a "majority " of the units must be occupied after rehabilitation by low and moderate income persons at affordable rents. Although this standard could not be met in a two-unit structure unless both units were so occupied, HUD will consider the rehabilitation of a two-unit structure to benefit persons of low and moderate income so long as one of the units is occupied after rehabilitation by low and moderate income persons.

D. Counting Funds Used for the Principal Benefit Certification

1. Standards for low and moderate income benefit - Except as provided in 2 below, where an activity meets the standards for low and moderate income benefit, as described in §570.901(b)(1), all CDBG funds for that activity are counted toward the 51 percent requirement. This includes funds that qualify under the rule at §570.901(b)(1)(vi) for activities in areas with less than a majority of low and moderate income persons.
- a. No funds are counted as low and moderate income benefit if they are used for an activity that only meets the standards for activities which aid in the prevention or elimination of slums or blight under the standards of §570.901(b)(2), or activities designed to meet community development needs having a particular urgency under the standards of §570.901(b)(3). If an activity meets the slum or blight or urgent needs standards, but also meets a low and moderate income benefit standard, all of the funds for that activity are counted as low and moderate income benefit.
- b. As provided in §570.901(f)(3)(i), all funds used for planning and administration pursuant to §§570.205 and 570.206 (excluding "planning only

grants") are considered to benefit low and moderate income persons in the same proportion as the remainder of the grant and are excluded from the calculation. Therefore, the 51 percent test is applied to the aggregate of State funds, after excluding costs for planning, management and administration for both States and units of general local government. Funds for "planning only" grants will be included in the calculation; they will count toward the 51 percent benefit requirement only if the activity meets a standard in §570.901(b)(1) to benefit low and moderate income persons.

2. New statutory provision - section 105(e) of the 1983 Amendments adds section 105(c)(3) to the Act which provides that any activity carried out with CDBG funds that involves the acquisition or rehabilitation of property to provide housing is considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons. The calculation disregards any non-CDBG funds used for the rehabilitation. For example, if a structure containing ten units was rehabilitated at a CDBG cost of \$100,000 and seven of the units are occupied by low and moderate income persons after rehabilitation at affordable rents, only \$70,000 could be counted as benefiting low and moderate income persons.
3. Residential Rehabilitation - Section 570.901(b)(1)(iv) requires that for a unit to qualify as benefiting low and moderate income persons, the unit must be occupied by low and moderate income persons, except when the structure contains more than one dwelling unit. Thus, if single family residential structures are being rehabilitated, only those structures occupied by low and moderate income persons can qualify under this criterion. Any other single unit structures would have to meet the slum blight criteria in section 570.901(b)(2)(i)(A) or (B).

Also note that for multi-unit structures to meet the criteria, the units must be occupied by low and moderate income persons at affordable rents. To accomplish this, the State must adopt and make public its criteria for affordable rents.

E. Meeting National Objectives

1. In addition to the new principal benefit test applied to the overall program, each activity must still address one of the three national objectives. Therefore, any activity which does not benefit low

and moderate income persons under the standards in §570.901(b)(1) must qualify as an activity which meets one of the following national objectives:

- a. preventing or eliminating slums and blight, under the standards at §570.901(b)(2), or
- b. meeting community development needs having a particular urgency under the standards at §570.901(b)(3). For urgent needs, the activity must be designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which is of recent origin or recently became urgent; the recipient is unable to finance the activity on its own, and other resources to finance the activity are not available. Recent origin is defined as a condition that developed, or became critical, within 18 months of the certification. The State must retain documentation justifying its certifications.

II. Community Development Plan

This section covers the certifications and requirements for the State's community development plan, as well as the certification the State must make for its recipients of funds.

A. Content of Community Development Plan

1. Section 104(c) of the 1983 Amendments adds a new section 104(b) to the Act, which requires each State to certify that it has developed a community development plan. The plan must identify the State's community development and housing needs, and specify the State's long-and short-term community development objectives. The objectives must be developed in accordance with the primary objective (principal benefit requirement) and other requirements of Title I. The plan must cover the same period the State specifies in its certification for the principal benefit requirement.
2. For purposes of the community development plan and the principal benefit requirement, the period will be defined by grant allocation(s). For example, if a State selects one year's allocation, the plan and the principal benefit test will apply to the activities carried out with that allocation, regardless of how long it takes to complete those activities.

B. State Certifications Concerning Units of Local Government

1. Section 106(f) of the 1983 Amendments adds section 106(d)(2)(D) to the Act, which provides that in order for the State to receive and distribute funds, the Governor must certify that each unit of general local government to be distributed funds will be required to identify its housing and community development needs, including those of low and moderate income persons, and the activities to be undertaken to meet such needs.
2. The State may determine how it will require the units of general local government to identify needs, and the extent to which the activities shall be described by localities. In States which have already made selections for FY 84, recipients must meet the requirements before any further steps can be taken in the funding process. For FY 85 and beyond, States may not announce any selections of recipients before these certifications are made.

III. Public Participation

A. Additional Requirements in Preparing and Submitting Statements

Section 104(b)(2) of the 1983 Amendments adds the following requirements to section 104(a)(2)(A) of the Act for the State to provide additional information to citizens, and where appropriate, units of general local government, in the process of preparing and submitting its statements:

1. The estimated amount of funds proposed to be used for activities that will benefit low and moderate income persons;
2. The State's plans for minimizing displacement of persons as a result of CDBG activities and for assisting persons actually displaced.

B. Certification

The certification of the State required pursuant to section 104(b)(1) of the Act, the public participation requirements, encompasses these additional requirements. States that have already submitted their certifications for FY 84 must submit a new public participation certification, along with the other new certifications, that this additional requirement has been met. If, for example, the information regarding the amount of funds available, proposed activities, and range of eligible activities

was provided previously, only the information concerning program funds to benefit low and moderate income persons and plans for minimizing displacement and assisting displaced persons needs to be provided.

C. Requirements for Access to Records and for Amendments.

Section 104(b)(5) of the 1983 Amendments also adds section 104(a)(2)(D) and (E) to the Act, which respectively require the State to provide citizens and, where appropriate, units of general local government:

1. access to records on the past use of funds.
2. reasonable notice of, and an opportunity to comment on, any proposed substantial changes in the use of funds.

IV. Eligible Activities

A. Certification

Section 106(e) of the 1983 Amendments amends section 106(d)(2)(C) of the Act to provide that, in order to receive and distribute funds, the Governor is required to certify that the State will not refuse to distribute funds to a unit of general local government on the basis of the particular eligible activity selected by the locality to meet its community development needs. The new provision states that it may not be considered to prevent the State from establishing priorities in distributing funds on the basis of the activities selected. The State could, therefore, give certain types of activities priority or design a selection system in which certain activities may not compete as effectively as others. All submissions that propose activities eligible under section 105 must nevertheless be considered during the State's selection process. A State cannot advise cities that any activity listed in section 105 and otherwise eligible under Subpart C of the regulations is ineligible or will not be considered.

B. Applicability of Subpart C Regulations

The provisions of the regulations in Subpart C, Eligible Activities, §570.200 through 570.207, apply to the eligibility of activities in the State program except where they are inconsistent with the 1983 Amendments or other State Program statutory provisions. In addition, OMB Circulars A-102 and A-87 remain inapplicable under the OMB exemptions except to the extent provided in the preamble to Subpart I that the States must apply equivalent procedures of their own for financial management and control of the

program. References to "recipient" in Subpart C are applicable to units of general local government.

§570.200 applies subject to the following modifications and exceptions:

§570.200(a)(2) is superseded by the 1983 Amendments and the new requirements are set forth in Program Design Considerations, IE of these instructions.

§570.200(a)(4), (d)(2), and (f)(1)(ii) dealing with OMB Circulars do not apply.

§570.200(a)(5), (h), and (i) do not apply.

§570.200(c) applies as modified in Submission Requirements and HUD Actions, II of these instructions.

§570.200(e) applies except that a determination is no longer required under §570.201(c)(1).

Other changes to Subpart C are described below in C through G.

C. Public Facilities

1. Section 105(a) of the 1983 Amendments changes section 105(a)(2) and (a)(14) to make buildings for the general conduct of government ineligible. Section 102(e) of the 1983 Amendments adds a new section 102(a)(21) to the Act which defines buildings for the general conduct of government as "city halls, county administrative buildings, State capitol or office buildings, or other facilities in which the legislative or general administrative affairs of government are conducted. Such term does not include facilities such as neighborhood service centers or special purpose buildings located in low and moderate income areas that house various nonlegislative functions or services provided by governments at decentralized locations." This new definition supersedes the description of "buildings for the general conduct of government" at §570.207(a)(1) of the current regulations. Previously, these types of public facilities were not specifically prohibited in section 105, and had been undertaken by some State recipients.
2. Section 105(a) of the 1983 Amendments revises section 105(a)(2) of the Act to remove certain restrictions placed on some public facilities that linked their eligibility to either location in a community development area or the lack of other sources of funds. These restrictions have been removed.

Therefore, §570.201(c)(1) and (2) are no longer applicable. The activities affected are parks, playgrounds, river reclamation, flood and drainage, parking lots, fire protection, solid waste disposal and recycling or conversion facilities. However, the restrictions will continue to apply to FY 82 and FY 83 funds.

D. Section 17 Housing

Section 302(a) of the 1983 Amendments adds a new section 105(a)(18) to the Act which allows CDBG funds to be used for the development or rehabilitation of housing assisted under Section 17 of the United States Housing Act of 1937. These are the rental rehabilitation and housing development programs included in Title III of the 1983 Amendments. Until the Department issues implementing regulations for these programs, further information will not be available.

E. Public Services

Section 105(b)(1)(A) of the 1983 Amendments amends section 105(a)(8) of the Act to increase the percentage of each grant that a unit of general local government can use for public services from ten to fifteen percent. The ten percent limitation in §570.201(e)(2) of the regulations is no longer applicable. The provision at §570.201(e)(3) also does not apply. The new exception to the percentage limitation in section 105(a)(8) of the Act (see section 105(b)(1)(B) of the 1983 Amendments) applies to those recipients that were authorized to exceed the previous ten percent limitation in FY 83 for their Block Grant funds exclusive of funds under the Jobs Bill. These recipients may use more than fifteen percent in FY 84 and beyond by using the same percentage or the same dollar amount, whichever is higher, as they used in FY 83. Because the Act clearly sets the limitations, States may not set lower levels. The requirements at §570.201(e)(1) remain unchanged.

F. Shared Housing for Elderly Persons

105(d) of the 1983 Amendments adds a new provision under section 105(a)(15) of the Act which authorizes grants to nonprofit organizations to assist in the development of shared housing opportunities (except new housing construction) for elderly persons. Elderly persons are those defined in section 3(b)(3) of the United States Housing Act of 1937.

SUBMISSION REQUIREMENTS AND HUD ACTIONS

I. Proposed and Final Statements

A. Contents

1. All of the requirements described below for the Final Statement will also apply to the proposed Statement. The Statement, as in the past, must contain the State's community development objectives and method of distribution. In addition, the new requirements added to section 104(a) of the Act by section 104(a) of the 1983 Amendments provide that, beginning with FY 84, the Statement must also include:
 - a. a description of the use of funds under each previous allocation;
 - b. an assessment of the relationship of the use of funds to the community development objectives identified by the State in each prior Final Statement; and,
 - c. an assessment of the relationship of the use of funds to the requirements of section 104(b)(3) of the Act, as they existed at the time of the certification.
2. Because the statute requires a separate description of the past use of funds, States may not simply reference their annual reports. They may, however, attach the annual report or selected excerpts.
3. For the FY 84 Statement, the description must include both FY 82 and FY 83 grants if the State administered the program in those years. Each year's grant should be identified and accounted for separately. HUD must wait until the new requirement has been complied with before making a grant. States that have already published their FY 84 Statements may publish the description and assessment for comment independently and submit the information as an addendum to their Final Statements. Beginning in FY 85, and for subsequent years, the description shall cover the use of each year's grant since preparation of the previous Final Statement.

II. Additional New Certifications

In addition to certifications discussed in Section I, under Program Design Considerations, and the previously required certifications, the Act adds several new certifications for States.

A. Special Assessment

1. Provisions of the Certification - section 104(c) of the 1983 Amendments adds a new section 104(b)(5) to the Act which requires grantees to submit a new certification prohibiting the recovery of capital costs for public improvements financed in whole or part with CDBG funds, through assessments against properties owned and occupied by low and moderate income persons. The prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.
2. Exceptions to the Requirement - The first sentence of §570.200(c)(2) of the regulations prohibits levying special assessments to recover any CDBG funds used to pay for public improvements, and remains applicable. There are, however, two exceptions or circumstances in which an assessment or fee may be made to recover the non-CDBG share of the capital cost:
 - a. Where funds received under the State's CDBG allocation are used to pay the proportion of a fee or assessment against properties owned and occupied by low and moderate income persons. (Such payments are eligible CDBG activities subject to the provisions of §570.200(c)(3) of the regulations); or
 - b. Where the grantee certifies that it lacks sufficient CDBG funds to comply with the requirements of a, above, for the payment of assessments against properties owned and occupied by persons of low and moderate income who are not very low income (i.e., not below 50 percent of median). In this case, the assessment may be made against such properties without paying for the assessment with CDBG funds.
3. Certification by Recipient Units of General Local Government - Section 106(i) of the 1983 Amendments adds section 106(d)(5)(D) to the Act which prohibits the State from distributing funds to recipients unless the unit of local government submits an identical certification concerning assessments to the State.
4. Timing of the Certification - The State's certification is required at the time it submits the Final Statement. Units of local government must make their certification to the State before the State can distribute funds to them. States may decide how they want to implement this provision, and the extent to which they wish to rely on certifications or require supporting documentation. For purposes of the local

government certification, the test for availability of CDBG funds is limited to those CDBG grant funds the recipient receives from the State, not the total State allocation.

B. Affirmatively Furthering Fair Housing

Section 104(c)(1) of the 1983 Amendments adds language to the civil rights certification required by section 104(b)(2) of the Act for compliance with Title VI and Title VIII, that the grantee will affirmatively further fair housing. Section 106(i) of the 1983 Amendments adds a requirement in section 106(d) of the Act that the same civil rights certification must be made to the State by a unit of general local government before it may receive funds.

C. Reasonable Benefits to Persons Involuntarily and Permanently Displaced

Section 104(g) of the 1983 Amendments adds a new section 104(j) to the Act, which requires grantees to provide reasonable benefits to those persons involuntarily and permanently displaced as a result of CDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential and non-residential property not governed by the Uniform Relocation Act. States should define the standards they will use for determining reasonable benefits for their recipients under this requirement.

D. Deletion of The Ten Percent Match

Section 106(1) of the 1983 Amendments deleted section 106(d)(2)(C)(iii) of the Act which required States to provide a ten percent match of community development resources as a "buy-in" provision. States must continue to maintain records for the match required for previous allocations. If a State has already submitted this certification for FY 84, you should advise the State that because of the statutory changes the obligations under the certification are annulled.

III. Requirements for Units of General Local Government

A. Certifications

Section 106(i) of the 1983 Amendments added section 106(d)(5) to the Act which requires units of general local government to make certain certifications to the State. The certifying official must have sufficient authority to make such certifications on behalf of the unit of government. The State may not distribute funds unless the unit of government has submitted certifications providing essentially that:

1. it will minimize displacement as a result of activities assisted with CDBG funds;
2. it will conduct and administer its program in conformance with Title VI and Title VIII, and affirmatively furthering fair housing;
3. it will provide opportunities for citizen participation comparable to the State's requirements (those described in Section 104(a)(2) of the Act, as amended);
4. it will not use assessments or fees to recover the capital costs of CDBG - funded public improvements from low and moderate income owner occupants, as described in II A, above.

B. Submission of Certification in FY 84

Where States have not distributed FY funds, they should request their recipients to submit the appropriate certifications, including the citizen participation certification, before disbursing funds. However, if a State has already selected its FY 84 recipients, then it should receive those new certifications before permitting local governments to spend CDBG funds.

IV. HUD Reviews and Actions

A. Processing Instructions

Attachment 3 provides detailed processing instructions for FY 84. These, together with the guidance in the memorandum, should minimize any undue delays in awarding grants.

B. HUD Actions on the Community Development Plan.

1. HUD will review the State certification on the community development plan in the same manner as other certifications. Certifications will be accepted, unless there is substantial evidence to challenge their validity, as provided in §570.490(c) of Subpart I.
2. The community development plan does not have to be submitted with the Final Statement, but must be retained in State files. HUD will review the plan later only to ensure that it has the necessary elements.

APPENDIX E

U.S. Department of Housing & Urban Development (HUD)

HOUSEHOLD INCOME UNITS, BY COUNTY, FOR DETERMINATION OF LOW AND MODERATE INCOME STATUS

The Housing and Urban-Rural Recovery Act of 1983 established a standard definition of "low and moderate income" for CDBG purposes nationwide which is based on income guidelines used for the HUD Section 8 Assisted Housing Program.

The following tables contain the March 1, 1984 HUD income limits for each Montana county and will be used to determine income eligibility for the purposes of applications submitted by local governments for Fiscal Year 1985 CDBG funds. The first line listed for each county defines the upper limit for "low" income according to household size. The second line listed for each county defines the upper limit for "moderate" income according to household size.

For further information regarding low and moderate income requirements see Appendix F, "Department of Commerce Guidelines for Documenting Benefit to Low and Moderate Income Persons."

HOUSEHOLD INCOME LIMITS

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS
BEAVERHEAD	Low	7400	8500	9550	10600	11450	12300	13150
	Moderate	11850	13550	15250	16950	18000	19100	20150
BIG HORN	Low	7200	8250	9250	10300	11100	11950	12750
	Moderate	11550	13200	14850	16500	17550	18550	19600
BLAINE	Low	6950	7950	8950	9950	10750	11550	12350
	Moderate	11150	12700	14300	15900	16900	17900	18900
BROADWATER	Low	6850	7850	8800	9800	10600	11350	12150
	Moderate	11000	12550	14150	15700	16700	17650	18650
CARBON	Low	7100	8100	9150	10150	10950	11750	12600
	Moderate	11400	13000	14600	16250	17250	18300	19300
CARTER	Low	7350	8400	9450	10500	11350	12200	13000
	Moderate	11750	13450	15100	16800	17850	18900	19950
CASCADE	Low	8850	10100	11400	12650	13650	14650	15700
	Moderate	14200	16200	18200	20250	21500	22800	24050
CHOUTEAU	Low	8050	9200	10350	11500	12400	13350	14250
	Moderate	12900	14700	16550	18400	19550	20700	21850
CUSTER	Low	8450	9650	10850	12050	13000	14000	14950
	Moderate	13500	15450	17350	19300	20500	21700	22900
DANIELS	Low	7550	8650	9700	10800	11650	12550	13400
	Moderate	12100	13850	15550	17300	18400	19450	20550
DAKOTA	Low	9000	10300	11550	12850	13900	14900	15950
	Moderate	14400	16450	18500	20550	21850	23150	24400
DEER LODGE	Low	8600	9850	11050	12300	13300	14250	15250
	Moderate	13800	15750	17750	19700	20950	22150	23400

	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS	
FALLON	Low Moderate	8400 13450	9600 15350	10800 17300	12000 19200	12950 20400	13900 21600	14900 22800	15850 24000
FERGUS	Low Moderate	7100 11400	8100 13000	9150 14600	10150 16250	10950 17250	11750 18300	12600 19300	13400 20300
FLATHEAD	Low Moderate	8450 13500	9650 15450	10850 17350	12050 19300	13000 20500	14000 21700	14950 22900	15900 24150
GALLATIN	Low Moderate	8750 14000	10000 16000	11250 18000	12500 20000	13500 21250	14500 22500	15500 23750	16500 25000
GARFIELD	Low Moderate	6150 10450	7050 11900	7900 13400	8800 14900	9500 15850	10200 16750	10900 17700	11600 18650
GLACIER	Low Moderate	7400 11850	8450 13500	9500 15200	10550 16900	11400 17950	12250 19000	13100 20050	13950 21150
GOLDEN VALLEY	Low Moderate	6250 10450	7150 11900	8050 13400	8950 14900	9650 15850	10400 16750	11100 17700	11800 18650
GRANITE	Low Moderate	7150 11400	8150 13050	9200 14700	10200 16300	11000 17350	11850 18350	12650 19400	13450 20400
HILL	Low Moderate	9400 15000	10700 17150	12050 19300	13400 21450	14450 22800	15550 24150	16600 25450	17700 26800
JEFFERSON	Low Moderate	8750 14000	10000 16000	11250 18000	12500 20000	13500 21250	14500 22500	15500 23750	16500 25000
JUDITH BASIN	Low Moderate	6750 10800	7700 12350	8700 13900	9650 15450	10400 16400	11200 17400	11950 18350	12750 19300
LAKE	Low Moderate	6550 10450	7500 11950	8400 13450	9350 14950	10100 15900	10850 16850	11600 17750	12350 18700
LEWIS & CLARK	Low Moderate	9500 15200	10850 17350	12200 19550	13550 21700	14650 23050	15700 24400	16800 25750	17900 27150

		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS
LIBERTY	Low	8150	9300	10500	11650	12600	13500	14450	15400
	Moderate	13050	14900	16800	18650	19800	21000	22150	23300
LINCOLN	Low	8700	9900	11150	12400	13400	14400	15400	16350
	Moderate	13600	15500	17450	19400	20600	21850	23050	24250
McCONE	Low	7150	8150	9200	10200	11000	11850	12650	13450
	Moderate	11400	13050	14650	16300	17300	18350	19350	20400
MADISON	Low	6950	7950	8950	9950	10750	11550	12350	13150
	Moderate	11150	12750	14350	15900	16900	17900	18900	19900
MEAGHER	Low	7200	8200	9200	10250	11050	11900	12700	13550
	Moderate	11500	13100	14750	16400	17450	18450	19500	20500
MINERAL	Low	7850	8950	10100	11200	12100	13000	13900	14800
	Moderate	12550	14350	16150	17900	19050	20150	21300	22400
MISSOULA	Low	9050	10300	11600	12900	13950	14950	16000	17050
	Moderate	14450	16500	18600	20650	21950	23250	24500	25800
MUSSELSHELL	Low	6500	7400	8300	9250	10000	10750	11450	12200
	Moderate	10450	11900	13400	14900	15850	16750	17700	18650
PARK	Low	8250	9450	10600	11800	12750	13700	14650	15600
	Moderate	13250	15100	17000	18900	20100	21250	22450	23650
PETROLEUM	Low	6250	7100	8000	8900	9600	10300	11050	11750
	Moderate	10450	11900	13400	14900	15850	16750	17700	18650
PHILLIPS	Low	6450	7350	8300	9200	9950	10650	11400	12150
	Moderate	10450	11900	13400	14900	15850	16750	17700	18650
PONDERA	Low	9150	10500	11800	13100	14150	15200	16250	17300
	Moderate	14650	16750	18850	20950	22250	23550	24900	26200
POWDER RIVER	Low	8100	9250	10400	11550	12450	13400	14300	15250
	Moderate	12950	14800	16650	18500	19650	20800	21950	23150

		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS
POWELL	Low	7850	8950	10100	11200	12100	13000	13900	14800
	Moderate	12550	14350	16150	17900	19050	20150	21300	22400
PRAIRIE	Low	6300	7200	8100	9000	9700	10450	11150	11900
	Moderate	10450	11900	13400	14900	15850	16750	17700	18650
RAVALLI	Low	7050	8050	9050	10050	10850	11650	12450	13250
	Moderate	11250	12900	14500	16100	17100	18100	19100	20150
RICHLAND	Low	9050	10300	11600	12900	13950	14950	16000	17050
	Moderate	14450	16500	18600	20650	21950	23250	24500	25800
ROOSEVELT	Low	7800	8900	10050	11150	12050	12950	13850	14700
	Moderate	12500	14300	16050	17850	18950	20100	21200	22300
ROSEBUD	Low	9050	10350	11650	12950	14000	15000	16050	17100
	Moderate	14500	16600	18650	20700	22000	23300	24600	25900
SANDERS	Low	7000	8000	9000	10000	10800	11600	12400	13200
	Moderate	11200	12800	14400	16000	17000	18000	19000	20000
SHERIDAN	Low	8100	9300	10450	11600	12550	13450	14400	15300
	Moderate	13000	14850	16700	18550	19700	20850	22050	23200
SILVER BOW	Low	8900	10150	11450	12700	13700	14750	15750	16750
	Moderate	14200	16250	18300	20300	21600	22850	24150	25400
STILLWATER	Low	7050	8050	9050	10050	10850	11650	12450	13250
	Moderate	11250	12900	14500	16100	17100	18100	19100	20150
SWEET GRASS	Low	6400	7300	8250	9150	9900	10600	11350	12100
	Moderate	10450	11900	13400	14900	15850	16750	17700	18650
TETON	Low	7650	8700	9800	10900	11750	12650	13500	14400
	Moderate	12200	13950	15700	17450	18550	19650	20700	21800
TOOLE	Low	8150	9300	10500	11650	12600	13500	14450	15400
	Moderate	13050	14900	16800	18650	19800	21000	22150	23300

		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS
TREASURER	Low	6500	7400	8300	9250	10000	10750	11450	12200
	Moderate	10450	11900	13400	14900	15850	16750	17700	18650
VALLEY	Low	8100	9300	10450	11600	12550	13450	14400	15300
	Moderate	13000	14850	16700	18550	19700	20850	22050	23200
WHEATLAND	Low	6900	7900	8850	9850	10650	11450	12200	13000
	Moderate	11050	12600	14200	15750	16750	17750	18700	19700
WIBAUX	Low	6750	7700	8700	9650	10400	11200	11950	12750
	Moderate	10800	12350	13900	15450	16400	17400	18350	19300
YELLOWSTONE	Low	9500	10850	12200	13550	14650	15700	16800	17900
	Moderate	15200	17350	19550	21700	23050	24400	25750	27150

APPENDIX F

Montana Department of Commerce Community Development Division

1985 GUIDELINES FOR DOCUMENTING BENEFIT TO LOW AND MODERATE INCOME PERSONS

Each applicant for CDBG funds must document in its application that a minimum of 51 percent of the non-administrative funds requested for a CDBG project will be used for activities that are clearly designed to meet identified needs of persons of low and moderate income (LMI) in the project area. Applicants must also demonstrate that any activities proposed will not benefit moderate income persons in a manner which would exclude or discriminate against low income persons.

Under the 1982 and 1983 State CDBG Program, Montana established its own definition of low and moderate income. The Housing and Urban--Rural Recovery Act of 1983 has now established a national definition of "low and moderate income" for CDBG purposes which is essentially the same as that utilized previously in Montana's program: "a family whose income does not exceed 80% of the median income for the area (county) as determined by HUD with adjustments for smaller or larger families." "Low income" is defined as a household whose income does not exceed 50% of the median income for families in that county. Under the new law, states must use the statutory definition used for the HUD "Section 8" Assisted Housing Program.

The pertinent sections of the United States Housing Act of 1937 which set out the Section 8 eligibility requirements are excerpted in Exhibit A of this appendix.

Five basic steps are necessary to document how the proposed activities in a CDBG project will benefit LMI persons:

1. Identify the federal requirements relating to benefit to low and moderate income for the project under consideration.

The HUD regulations and guidelines reprinted in Appendices C (570.901 - page 43574) and D (page 5) of the CDBG Application Guidelines contain requirements for documenting benefit to LMI for certain types of projects. Applicants should review the text of the statutory conditions in Appendix A in conjunction with the HUD regulations and guidelines in Appendices C and D to determine how these requirements apply to a project under consideration.

The following are the most frequently used approaches to demonstrate benefit to LMI households:

- the project has income eligibility requirements that limit the benefits of the project to LMI persons; or

- the project does not have income eligibility requirements but services an area where at least 51 percent of the persons are LMI and provides services for such persons; or
- the activity must be carried out prior to or as an integral part of a project which will principally benefit LMI households (e.g., extension of water and sewer lines to permit construction of low income housing, etc.); and
- the project involves employment of persons, a majority of whom are persons of LMI.

2. Determine the income limits for LMI households in your county.

Appendix E of the 1985 CDBG Application Guidelines contains the current low and moderate income limits for households of different size for each county in the State. Appendix E lists the income ceilings for both "low" and "moderate" income. In most cases, applicants will only have to be concerned with the ceilings listed for "moderate" income.

Applicants considering public facilities projects should review "Assessments for Public Improvements" on page 53 of the CDBG Application Guidelines to determine if their project will be affected by a new federal requirement relating to project financing. If so, the local government may have to prepare a survey instrument to distinguish low income households from moderate income households. (See attached Model Population Characteristics Survey Form, Exhibit B of this appendix.)

3. Determine percentage of benefit to LMI families or persons for project activities.

Each activity within a CDBG project will take one of two approaches to benefiting LMI families: direct benefit or indirect benefit. Direct benefit occurs in project activities which are expressly designed to serve LMI persons (i.e., a housing rehabilitation grant and loan program where grants and loans are restricted to LMI residents, or payment of a charge for sewer hook-up or water meter installation in a public facility project). Indirect benefit occurs in project activities designed to serve need in a geographic area that has a mix of income levels, including LMI residents (i.e., a sewage treatment project which benefits all the residents of the project area, regardless of income).

In order for any proposal to be considered for funding, a minimum of 51% of the dollars requested must benefit LMI persons. Statistics used to fulfill this requirement must be supplied by the applicant, and must relate only to those LMI households residing within the specified project or service area. Sources for all statistics and the methodology for obtaining the data must be clearly described in the application.

The project area must be clearly delineated, because it may have an affect on the calculation of LMI benefit. For instance, a sewer project in a residential neighborhood would have a project area composed of the specific homes served. An income survey of those households would reveal the numbers of LMI persons affected. On the other hand, a water well project which supplements the municipality's existing water supply would benefit all residents. The community-wide percentage of LMI households would be the appropriate figure in such a case.

The 1983 Amendments provide that applicants proposing to use CDBG funds for area-wide or indirect benefit activities must provide data to demonstrate that at least 51% of the persons who would benefit from CDBG assistance have low or moderate incomes.

One aspect of this new federal requirement should be carefully examined by any county considering a county-wide project (such as a public facility application for a solid waste system). Like other area-wide projects providing indirect benefit, the county must demonstrate that at least 51% of the persons to be served by the project have incomes below 80% of the county median income. But since 50% of the county population, by definition, have incomes above the median and 50% have incomes below it, it would be unlikely that more than 51% of the population will have incomes below 80% of the median county income.

Area-wide or indirect benefit to low and moderate income persons can be documented in two ways:

a. HUD Low and Moderate Income Data

In September, 1984, the Region VIII offices of the U.S. Department of Housing and Urban Development calculated estimates of the percentage of LMI persons for each local government in Montana, based on 1980 Census data. (See Exhibit C of this appendix.) This source may be cited by an applicant and will be considered acceptable documentation.

b. Local Income Surveys

In the event that the HUD data indicate that less than 51% of persons in the community have low and moderate incomes the applicant may conduct a survey of local residents in the project area to document compliance with this requirement.

Many communities have found that a thorough local survey will reflect a percentage of LMI persons from five to ten percent higher than HUD estimates show. A major reason for this is that the HUD figures are calculated from 1980 Census data which is based on 1979 income information. Several communities have experienced changes in their local economy due to plant, mill or mine closures or the downturn in the agricultural sector which only a current survey would reflect.

Sample Size

The burden of proof that HUD data inaccurately reflects current conditions will be upon any community conducting a local survey. In order to document that local surveys have been conducted with a sound methodology, the Department of Commerce uses a formula which sets a minimum sample size for the survey, according to the population of the project area.

A "sample" is the portion of the total population that is surveyed. If a community has, for example, 1,000 households, it would be time consuming and expensive to interview ever single one. It would be more efficient to survey only a portion of the households and use that portion to represent a cross section of the entire community. This portion is the "sample." To be reasonably certain that the sample is a statistically valid representation of the entire population, it must include a minimum amount of households, which varies according to the size of the total population. To continue the example above, if the community surveyed only 50 households out of the 1,000, there would be a good chance that many of those 50 are not representative of the entire community. This would be especially true if all 50 were selected from a specific neighborhood, instead of randomly.

There are many complex formulas for determining how large a sample you must have in order to be reasonably confident that the sample accurately reflects your population. The formula used by the Department of Commerce is relatively simple and has been acceptable to HUD, Region VIII, since 1979.

$$\text{Sample size} = \frac{.25}{.000625 + \frac{.25}{\text{population size}}}$$

For the purposes of most local surveys, the population size is the number of households in your community, not the number of individuals. For example, if your community has 1000 households, as in the example above, your sample size would be calculated as follows:

$$\frac{.25}{.000625 + \frac{.25}{1000}} = \frac{.25}{.000625 + .000250} = \frac{.25}{.000875} = 286$$

Exhibit D has a list of populations and the sample sizes needed in order to validate a survey. It should be noted that sample size is really the number of actual responses received in a survey, not just the number of households contracted. There will always be some households that do not choose to respond, and that being the case, the community should be prepared to make additional efforts, such as a follow-up mailing or more door-to-door interviews, until it has an adequate number of responses.

Random Selection of Houses to be Surveyed

In addition to having a large enough sample, the households to be surveyed must be chosen at random so that the results will not be biased. For mailed or telephone surveys, many communities have used voter registration rolls, telephone books, or motor vehicle registration records to provide a comprehensive list to begin with. None of these lists is perfect, but all are generally available and useable. Determine the interval you will sample by dividing your sample size to your population size. If, for instance, you have 400 households and plan to sample 200 of them, you should take every other name or for a door-to-door survey, visit every other house. (You may want to roll a dice to decide at which name or house you will start, rather than simply starting with the first one.)

For door-to-door surveys, each unit in a multi-family structure, such as an apartment, should be counted as a separate address. Call-back visits should be made to sample residences where no one was available for the initial interview. If the call-back visit is also unsuccessful, the next address in sequence should be interviewed. (Often if no one is home in the day, they may be in during the evening, so if the original visit was in the daytime, the call-back should be scheduled for evening.)

All original survey documentation must be retained by the applicant and made available for review in the event that the application is tentatively selected for funding. For this reason, the Department encourages the use of written survey forms rather than telephone surveys. If a telephone survey is conducted, applicants must retain detailed logs of the persons contacted and their responses. The lack of adequate documentation to substantiate information contained in the application will be considered sufficient grounds for the Department to re-rank an application and, if justified, to withdraw a tentative grant award.

The Department has published a guideline, "The Community Development Needs Assessment Process," which contains suggestions for conducting more effective community surveys.

The applicant may use a survey conducted previously if it conforms to current Department guidelines and still accurately reflects local conditions.

A copy of the survey form, with a composite summary of all responses, and a description of the survey methodology used must be submitted with the application. If an applicant intends to use an alternative format or methodology, it must seek prior approval from the Department of Commerce before conducting the survey. The Department's Model Survey Form is shown as Exhibit B of this appendix.

4. Calculate Low and Moderate Income (LMI) Benefit for Each Project Activity.

Compliance with the benefit to LMI requirement is calculated on an activity-by-activity basis. The percentage of benefit to LMI is calculated as a percentage of the total number of households who will benefit from the CDBG project, as in the following example:

<u>Activities</u>	<u>LMI Households Benefitting</u>		<u>Total Households Benefitting</u>		<u>Percent of Benefit to LMI Households</u>
Housing Rehabilitation	100	÷	100	=	100%
Housing Demolition & Relocation	10	÷	10	=	100%
Sidewalk Improvements	110	÷	200	=	55%

In the example provided above, both the Housing Rehabilitation and the Demolition and Relocation Activities will be restricted to LMI families and are thus direct benefit activities. The applicant is claiming 100% benefit because only LMI will benefit. The sidewalk improvements will be made in the entire project area in which 55% of the families are LMI. This is an indirect benefit and the percentage of benefit claimed is the percentage of LMI in the project area, 55%.

5. Determine percentage of non-administrative CDBG funds to benefit low and moderate income (LMI).

Using the situation described in the example above, the following demonstrates the procedure used to calculate the percentage of non-administrative CDBG funds which will benefit LMI households:

<u>Activities</u>	<u>Amount Requested</u>		<u>Percent of Benefit to LMI Households</u>		<u>Funds Benefitting LMI Households</u>
Housing Rehabilitation	\$350,000	x	100%	=	\$350,000
Housing Demolition & Relocation	75,000	x	100%	=	75,000
Sidewalk Improvements	<u>25,000</u>	x	55%	=	<u>13,750</u>
Total	\$450,000				\$438,750

To determine the composite percentage, the following calculation is made:

$$\frac{\$438,750 \text{ (total dollars benefiting low and moderate income)}}{\$450,000 \text{ (total grant request, excluding administration)}} = 98\%$$

Exhibit E of this appendix contains a form to be used by applicants for calculation of LMI benefit which uses the procedures described above.

EXHIBIT A

Federal Standards for Definition of Low and
Moderate Income Status

(Income eligibility standards from the U.S. Housing Act of 1937)

§ 889.103 Determination of income for eligibility.

For purposes of determining whether a family is a lower-income family ("moderate income" for CDBG purposes) or a very low-income family, ("low income" for CDBG purposes), income shall be determined in accordance with § 889.104, except that where a family has net family assets in excess of \$5,000, income shall include the actual amount of income, if any, derived from all of the net family assets or 10 percent of the value of all such assets, whichever is greater. For purposes of this section, net family assets means value of equity in real property, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

§ 889.104 Computation of annual income.

(a) Except as provided in paragraph (b) of this section, all payments from all sources received by the family head (even if temporarily absent) and each additional members of the family household who is not a minor shall be included in the annual income of a family. Income shall include, but not be limited to:

- (1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
- (2) The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
- (3) Interest and dividends;
- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay (but see paragraph (8)(b)(3) of this section).
- (6) Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:

- (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus
 - (ii) The maximum amount which the public assistance agency could in fact allow for the family for shelter and utilities.
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
- (8) All regular pay, special pay and allowances of a member of the armed forces (whether or not living in the dwelling) who is head of the family or spouse (but see paragraph (8)(b)(5) of this section).
- (b) The following items shall not be considered as income:
 - (1) casual, sporadic or irregular gifts;
 - (2) amounts which are specifically for or in reimbursement of the cost of medical expenses;
 - (3) lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses (but see § 889.103);
 - (4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans, not used for the above purposes of which are available for subsistence are to be included in income;
 - (5) The special pay to a serviceman head of a family away from home and exposed to hostile fire;
 - (6) Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
 - (7) foster child care payments;
 - (8) the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;
 - (9) payments received pursuant to participation in the following volunteer programs under the ACTION Agency;
 - (i) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs.
 - (ii) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

- (c) If the circumstances are such that it is not feasible reasonably to anticipate a level of income over a 12 month period, a shorter period may be used subject to a redetermination at the end of such period.

Exhibit B

Montana Department of Commerce
Community Development Division

MODEL POPULATION CHARACTERISTICS SURVEY FORM

The information requested below is vital to _____'s application to the Montana Department of Commerce for a Community Development Block Grant. Your individual response will be kept confidential and will not be available to the general public; the individual statistics will be compiled and used in summary form for the grant application.

1. What is the total number of persons in your household, including yourself?

Check here _____ if the sole head of your household is female.

Check here _____ if the sole head of your household is age 60 or over.

2. In the box below please indicate the number of males and the number of females in your household in each of the age categories listed below, including yourself:

	<u>Male</u>	<u>Female</u>
<u>0-4 years</u>		
<u>5-9 years</u>		
<u>10-14 years</u>		
<u>15-19 years</u>		
<u>20-24 years</u>		
<u>25-34 years</u>		
<u>35-44 years</u>		
<u>45-54 years</u>		
<u>55-64 years</u>		
<u>65 and over</u>		

3. The U.S. Department of Housing and Urban Development (HUD) defines "Minority Households" as those composed of members of the following minority groups:

_____ Black
_____ American Indian or Alaskan Native
_____ Asian or Pacific Islander
_____ Hispanic

If your household fits one of these minority classifications, please check the appropriate space.

- 4.a. HUD defines "Handicapped Households" as those containing at least one person who is physically or mentally disabled or handicapped. Are any of your household members handicapped?

_____ Yes
_____ No

- b. If you do live in a handicapped household, does your dwelling need any special modifications to improve access for the handicapped person(s)?

_____ Yes
_____ No

5. Do you own or rent your residence?

_____ Own
_____ Rent

6. Table A lists gross household incomes for various family sizes. Was the total gross unadjusted income for 1984 for all members of your household above or below the income listed under your household size?

Table A

1	2	3	4	5	6	7	8
Above A _____							
Below A _____							

If your income was below the income for your household size in Table A, was your income for 1984 above or below the income listed for your household size in Table B?

Table B

1	2	3	4	5	6	7	8
Above B _____							
Below B _____							

Note to Person Preparing Form Regarding Question #6:

Appendix E of the 1985 CDBG Application Guidelines contains income figures for the upper limits of "moderate" and "low" income, according to household size, for each county in the State. Most applicants should prepare their local income survey form by incorporating the figures for "moderate" income listed for their county in Appendix F in the squares under Title A.

The text below the dashed line for Table B should be used only if the project proposed for CDBG funding will be affected by the new federal requirements relating to financing of public facilities projects (see page 73 of the Application Guidelines, "Assessments for Public Improvements." If an applicant must distinguish between "moderate" income households and "low" income households, the figures for "low" income listed in Appendix E for that county must be listed in Title B.

All other applicants should delete the text below the dashed line for Table B and the accompanying language from their survey form:

Exhibit C

Percent of Low and Moderate Income (LMI) Persons for Montana Local Governments
According to U. S. Department of Housing and Urban Development

(Calculated based on 1980 Census, September, 1984)

<u>Local Government</u>	<u>% of LMI Persons</u>
<u>Beaverhead County</u>	44.08
Dillon	42.22
Lima	43.33
<u>Big Horn</u>	42.64
Lodge Grass	60.99
Hardin	42.19
<u>Blaine</u>	41.42
Chinook	38.50
Harlem	34.98
<u>Broadwater</u>	38.97
Townsend	38.53
<u>Carbon</u>	42.55
Bridger	41.88
Fromberg	49.02
Joliet	43.81
Bearcreek	47.54
Red Lodge	46.04
<u>Carter</u>	50.81
Ekalaka	46.79
<u>Cascade</u>	41.53
Belt	47.61
Cascade	51.26
Neihart	43.30
<u>Chouteau</u>	40.83
Big Sandy	55.14
Fort Benton	35.43
Ceraldine	47.32

<u>Custer</u>	44.57
Miles City	43.60
Ismay	72.22
<u>Daniels</u>	40.72
Flaxville	45.27
<u>Dawson</u>	39.11
Richey	55.28
Glendive	39.51
<u>Deer Lodge</u>	40.42
Anaconda-Deer Lodge	42.18
<u>Fallon</u>	39.88
Baker	29.97
Plevna	49.21
<u>Fergus</u>	43.82
Denton	46.40
Grass Range	53.33
Lewistown	39.95
Winifred	64.05
<u>Flathead</u>	40.56
Columbia Falls	34.63
Kalispell	40.14
Whitefish	45.40
<u>Gallatin</u>	49.63
Belgrade	40.36
Bozeman	61.69
Manhattan	43.41
Three Forks	50.48
West Yellowstone	50.07
<u>Garfield</u>	42.40
Jordan	38.14
<u>Goldon Valley</u>	44.29
Lavina	36.67
Ryegate	42.76

<u>Glacier</u>	42.83
Browning	53.57
Cut Bank	28.52
<u>Granite</u>	43.12
Drummond	31.94
Philipshurg	55.43
<u>Hill</u>	43.02
Hingham	61.46
Havre	40.83
<u>Jefferson</u>	38.44
Boulder	58.05
Whitehall	53.61
<u>Judith Basin</u>	38.98
Hobson	39.93
Stanford	40.44
<u>Lake</u>	42.40
Polson	48.28
Ronan	47.57
St. Ignatius	49.13
<u>Lewis and Clark</u>	42.11
Helena	42.88
East Helena	42.87
<u>Liberty</u>	40.03
<u>Chester</u>	39.89
<u>Lincoln</u>	41.36
Eureka	46.40
Rexford	48.65
Libby	36.61
Troy	57.16
<u>McCone</u>	46.91
Circle	34.30

<u>Madison</u>	41.64
Ennis	38.25
Sheridan	39.54
Twin Bridges	52.34
Virginia City	44.20
<u>Meagher</u>	41.64
White Sulphur Springs	36.73
<u>Mineral</u>	36.73
Alberton	38.38
Superior	35.12
<u>Missoula</u>	44.80
Missoula	52.99
<u>Musselshell</u>	42.48
Melstone	34.18
Round-up	38.45
<u>Park</u>	42.31
Clyde Park	46.74
Livingston	41.16
<u>Petroleum</u>	48.93
Winnett	44.34
<u>Phillips</u>	42.36
Dodson	20.13
Malta	39.58
Saco	54.22
<u>Pondera</u>	40.68
Conrad	33.46
Valier	50.92
<u>Powder River</u>	40.84
Broadus	36.32
<u>Powell</u>	39.35
Deer Lodge	36.29

<u>Prairie</u>	54.51
Terry	43.47
<u>Ravalli</u>	42.42
Darby	44.21
Hamilton	52.70
Stevensville	43.22
<u>Richland</u>	38.31
Fairview	46.59
Sidney	34.22
<u>Roosevelt</u>	38.18
Bainville	28.86
Culbertson	29.73
Froid	45.69
Brockton	37.96
Poplar	41.95
Wolf Point	32.76
<u>Rosebud</u>	42.55
Forsyth	39.94
<u>Sanders</u>	43.38
Hot Springs	69.07
Plains	44.56
Thompson Falls	38.43
<u>Sheridan</u>	39.48
Medicine Lake	39.51
Outlook	38.66
Plentywood	38.63
Westby	55.19
<u>Silver Bow</u>	32.49
Walkerville	46.04
<u>Stillwater</u>	41.88
Columbus	37.89
<u>Sweet Grass</u>	42.32
Big Timber	41.95

<u>Teton</u>	40.29
Choteau	45.90
Dutton	35.04
Fairfield	45.47
<u>Toole</u>	41.21
Shelby	40.54
Kevin	48.48
Sunburst	35.59
<u>Treasure</u>	40.20
Hysham	26.59
<u>Valley</u>	39.97
Glasgow	34.78
Nashua	39.67
Opheim	30.73
<u>Wheatland</u>	39.72
Harlowton	40.73
Judith Gap	50.00
<u>Wibaux</u>	45.64
Wibaux	39.89
<u>Yellowstone</u>	40.81
Laurel	41.68
Broadview	75.41

Exhibit D

SAMPLE SIZE REQUIRED ACCOPTING TO NUMBER OF HOUSEHOLDS
IN PROJECT AREA

<u>Number of Households In Project Area</u>	<u>Minimum Sample of Households Required</u>	<u>Percentage of Households Sampled</u>
50	44	88%
100	80	80
200	133	66
300	172	57
400	200	50
500	222	44
750	261	34
1,000	286	28
1,250	303	24
1,500	316	21
2,000	333	17
2,500	345	13
3,000	353	11
4,000	364	9

Exhibit E

CALCULATION OF CDBG FUNDS USED TO BENEFIT LOW AND MODFRATE INCOME (LMI) HOUSEHOLDS

The calculation of benefit to low and moderate income households is a two stage process. (For example, see pages four and five of this guideline.) First, the percentage of benefit to low and moderate income households must be calculated for each activity. Then, these percentages must be applied to the CDBG funds requested for each activity to get the total dollar benefit to low and moderate income households. Each step in the calculation is described below. Applicants may use the following form to describe the total CDBG dollar and percentage benefit that will result from their proposed projects.

1. In column A, describe the activity by name, such as "Housing Rehabilitation." Do not include administrative costs.
2. In column B, show the total number of households that the activity will serve.
3. In column C, show the number of low and moderate income households that the activity will serve.
4. In column D, divide column C by column B to show the percentage of low and moderate income households that the activity will serve.
5. In column F, show the amount of funds requested for the activity.
6. In column F, multiply column D by column E to show the amount of those funds that will be used to benefit low and moderate income households.
7. At the bottom of column E, show the total amount of non-administrative CDBG funds by adding up the CDBG funds for each activity.
8. At the bottom of column F, show the total amount of funds that will be used to benefit low and moderate income households by adding up the amount of funds to benefit low and moderate income households for each activity.
9. Determine overall benefit by dividing the total of column F by the total of column E to get the total CDBG project benefit to low and moderate income households.

[illegible]

Column F	Column E
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

APPENDIX G

MONTANA DEPARTMENT OF COMMERCE

STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

STATEMENT OF ASSURANCES

Each applicant must agree to comply with all applicable State and federal laws and regulations in implementing their proposed CDBG project, if it is selected for funding. Listed in the following Statement of Assurances are the most important federal regulations that apply to projects using CDBG funds. They cover a wide range of issues including environmental impacts, labor standards, employment practices, financial procedures, and civil rights, many of which can have an affect on the costs or complexity of project administration. Each federal law or regulation is annotated to give the applicant a general understanding of the requirements that must be met. Since this is a brief summary and not intended to be a comprehensive description of each law, local officials who have any questions or concerns regarding the applicability of these requirements should contact the Department for guidance.

MONTANA DEPARTMENT OF COMMERCE
STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

STATEMENT OF ASSURANCES

The Applicant hereby assures and certifies that:

Acceptance of Program Terms

It will comply with all applicable parts of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited herein as well as with other applicable federal laws and regulations.

It will comply with all requirements established by the Department of Commerce to ensure conformance to applicable State laws, regulations, and administrative procedures.

It accepts the terms, conditions, selection criteria, and procedures established by the Montana Community Development Block Grant Program and expressly waives any statutory or common law right it may have to challenge the legitimacy and propriety of these terms, conditions, criteria, and procedures in the event that it is not selected for an award of CDBG funds.

Air Quality

It will comply with the Clean Air Act (42 U.S.C. 7401, et seq.) which prohibits engaging in, supporting in any way or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards.

Assessments for Public Improvements

It will not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

- (a) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or,
- (b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause (a), above.

Building Standards

It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under the Montana CDBG Program to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1R 1971, subject to the exceptions contained in CFR 101-19.604. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor; and will comply with HUD Cost-Effective Energy Standards, 24 CFR Part 39.

Citizen Participation

It has provided or will provide citizens with adequate opportunity for meaningful participation in the planning and implementation of its CDBG project by:

- providing adequate notice for two or more public hearings;
- holding, at a minimum one public hearing before preparing the application to obtain views of citizens regarding community development needs and priorities, and one public hearing before submission of the application to explain the proposed project;
- furnishing citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount to be used for activities that will benefit persons of low and moderate income, and the plans of the applicant for minimizing displacement of persons as a result of activities assisted with CDBG funds and to assist persons actually displaced as a result of CDBG - funded activities;
- providing citizens with reasonable access to records regarding the past use of CDBG funds; and
- providing citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of CDBG funds from one eligible activity to another.

Civil Rights

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied in the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant,

this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

Conflict of Interest

It will ensure that no member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the community in which the project is situated, and no other public official of the local government who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or sub-contract, or the proceeds thereof, for work to be performed in connection with the program assisted under the agreement. The grantee shall incorporate, or cause to be incorporated, in all such contracts or sub-contracts a provision prohibiting such interest.

Displacement and Relocation

It will minimize displacement as a result of activities assisted with CDBG funds.

It will comply with:

- Sections 301 and 302 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Policies Act of 1970 and will comply with Sections 303 and 304 of the Title III, and HUD implementing instructions contained in 24 CFR Part 42. The grantee must inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations of 24 CFR, Part 42 and 24 CFR 570.602(b).
- Title II (Uniform Relocation Assistance) of the Uniform Relocation Assistance and Property Acquisition Act of 1970 and HUD implementing regulations of 24 CFR Part 42 and 24 CFR 570.602(a) which require the Grantee to provide relocation payments and offer relocation assistance as described in Section 205 of the Uniform Relocation Assistance Act to all persons displaced as a result of acquisition of real property for an activity assisted under the CDBG Program. Such payments and assistance must be provided in a fair and consistent and equitable manner that ensures that the relocation process does not result in a different or separate treatment of such persons on account of race, color, religion, national origin, sex or source of income. The grantee must assure that, within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex or source of income.

Environmental Impact

It will comply with:

- Section 104(f) of the Housing and Community Development Act of 1974, as amended through 1981. This section expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act be most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purpose of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to Section 104(f) of the Act and contained in 24 CFR Part 58; and
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58). The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety or other undesirable and unintended consequences. Environmental review procedures are a necessary part of this process. Pursuant to these provisions, the grantee must also submit environmental certifications to the Department of Commerce when requesting that funds be released for the project. The grantee must certify that the proposed project will not significantly impact the environment and that the grantee has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

Its chief executive officer or other officer of applicant approved by the State:

- (1) consents to assume the status of responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58, which further the purposes of NEPA, insofar as the provisions of such federal law apply to the Montana Community Development Block Grant Program; and
- (2) is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the federal courts for the purpose of enforcement of his responsibilities as such an official.

EPA List of Violating Facilities

It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities and that it will notify the Department of Commerce of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by EPA.

Equal Opportunity

It will comply with:

- Section 109 of the Housing and Community Development Act of 1974 (ACT), as amended, and the regulations issued pursuant thereto (24 CFR 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under the Act;
- the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) The act provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance;
- Section 504 of the Rehabilitation Act of 1973, amended (29 U.S.C. 794). The act provides that no otherwise qualified individual shall, solely, by reason of his or her handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds;
- Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 170/u) (24 CFR Part 135). Section 3 of the Housing and Urban Development Act of 1968 requires, in connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in which the project is located, and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part, by persons residing in the project area. The grantee must assure good faith efforts toward compliance with the statutory directive of Section 3; and
- Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60) prohibit a CDBG recipient and subcontractors, if any, from discriminating against any employee or applicant for employment because of race, color, religion, sex or national origin. The grantee and subcontractors, if any, must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action must include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and subcontractors must post in conspicuous places, available to employees and applicants

for employment, notices to be provided setting for the provisions of this nondiscrimination clause. For contracts over \$10,000 the grantee or subcontractors will send to each applicable labor union a notice of the above requirements, the grantee and subcontractors will comply with relevant rules, regulations and orders of the U.S. Secretary of Labor. The grantee or subcontractors must make their books and records available to State and federal officials for purposes of investigation to ascertain compliance.

Fair Housing

It will affirmatively further fair housing and will comply with:

- Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended. The law states that it is the policy of the United States to provide for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex or national origin. CDBG grantees must also administer programs and activities relating to housing and community development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII; and
- Executive Order 11063, as amended by Executive Order 12259, requires CDBG recipients to take all actions necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex or national origin; in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use or occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.

Financial Management

It will comply with the applicable requirements of Office of Management and Budget (OMB) Circular A-102, "Uniform Requirements for Assistance to State and Local Governments," or any equivalent procedures and requirements that the Montana Department of Commerce may prescribe. The circular is the basis for a number of specific requirements on the financial management and recordkeeping of CDBG funds. The directive applies to cash depositories, bonding and insurance, recordkeeping, program income, property management, procurement, close-out, audit, and other requirements.

It will comply with the applicable requirements and policies of OMB Circular A-87, "Cost Principles for State and Local Governments," as specified by the Department of Commerce.

It will provide for an audit of the CDBG project upon completion of project activities by a certified public accountant whose services were secured through an open, competitive process and will promptly refund to the Montana Department of Commerce any CDBG funds determined to have been spent in an unauthorized or improper manner or for ineligible activities.

It will give the Montana Department of Commerce, HUD, the Comptroller General, and the Montana Legislative Auditor, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

Floodplain Management and Wetlands Protection

It will comply with:

- the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et seq.) The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If a grantee proposes to conduct, support or allow an action to be located in the floodplain, the grantee must consider alternatives to avoid adverse effects and incompatible involvement in the floodplains. If siting in a floodplain is the only practical alternative, the grantee must, prior to taking any action: (1) design or modify its actions in order to minimize a potential harm to the floodplain; and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain; and
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et seq.). The intent of this Executive Order is to avoid adverse impacts associated with the destruction or modification of wetlands and direct or indirect support of new construction in wetlands, wherever there is a practical alternative. The grantee must avoid undertaking or providing assistance for new construction located in wetlands unless there is no practical alternative to such construction and the proposed action includes all practical measures to minimize harm to wetlands which may result from such use.

Historic Preservation

It will comply with:

- Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, as amended) through completion of the procedures outlined in 36CFR800 and 36CFR63. Compliance with these procedures should include:
 - (1) consulting with the State Historic Preservation Office (SHPO) to identify properties listed in or eligible for inclusion in the National Register of Historic Places that exist with a proposed CDBG project's area of potential environmental impact; and
 - (2) consulting, as needed with the SHPO, Keeper of the National Register of Historic Places, and the Advisory Council on Historic Preservation to evaluate the significance of historic or prehistoric properties which could be affected by CDBG work and to determine how to avoid or mitigate adverse effects to significant properties from project work.

Labor Standards

It will comply with:

- Section 110 of the Housing and Community Development Act of 1975, as amended, 24 CFR 570.605, and State regulations regarding the administration and enforcement of labor standards. Section 110 requires that all laborers and mechanics employed by contractors or subcontractors on construction work assisted under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276-a- 276a-5). By reason of the foregoing requirement the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to rehabilitation of residential property only if such property is designed for residential use for eight or more families;
- Davis-Bacon Act, as amended (40 U.S.C. a- et seq.), Section 2; June 13, 1934, as amended (48 Stat. 948.40 U.S.C. 276(c)), popularly known as The Copeland Anti-Kickback Act. The Act mandates that all laborers and mechanics be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account except "permissible" salary deductions, the full amounts due at the time of payments, computed at wage rates not less than those contained in the wage determination issued by the U.S.

Department of Labor. Weekly compliance statements and payrolls are required to be submitted to the federally-funded recipient by the contractor;

- Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.). According to the Act, no contract work may involve or require laborers or mechanics to work in excess of eight hours in a calendar day, or in excess of 40 hours in a work week, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours. If this Act is violated, the contractor or subcontractor is liable to any affected employee for unpaid damages as well as to the United States for liquidated damages; and
- Federal Fair Labor Standards Act, (29 U.S.C.S. 201 et seq.). The act requires that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week.

Lead Based Paint

It will comply with Title IV of the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4831), which prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance of any kind.

Legal Authority

It possesses legal authority to apply for the grant, to execute the proposed project, and if selected to receive a Community Development Block Grant will make all efforts necessary to assure timely and effective implementation of the project activities described in the attached application.

Noise, Facility Siting

It will comply with HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979) which prohibit HUD support for most new construction of noise-sensitive uses on sites having unacceptable noise exposure. HUD assistance for the construction of new noise-sensitive uses is prohibited in general for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. Additionally projects may not be located near facilities handling materials of an explosive or hazardous nature, or in airport clear zones.

Resolution of Authority

Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the submission of the application, including all understandings and assurances

contained herein, and directing and authorizing the signator to act in connection with the application and to provide such additional information as may be required.

Solid Waste

It will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.). The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

Water Quality

It will comply with:

- the Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349), as amended, particularly Section 1424(c) (42 U.S.C. Section 300F-303(e)) which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and
- the Federal Water Pollution Control Act of 1972, as amended, including The Clear Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.

Wildlife

It will comply with:

- the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical; and
- the Fish and Wildlife Coordination Act of 1958, as amended, (U.S.C. 661 et seq.) which requires that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

Wild and Scenic Rivers

It will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.). The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition; to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license or other mechanism can not be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

Signature, Chief Elected Official

Name (typed or printed)

Title

Date

APPENDIX H

DEPARTMENT OF COMMERCE MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM 1985 POINT DETRACTION SURVEY FORM FOR STRUCTURAL CONDITION OF HOUSING UNITS

This point detraction survey provides a range of points for housing defects that when summed indicates the severity of a housing unit's deterioration, if any. The format is intended for a "windshield" survey of local housing conditions which does not require inspection of the interior of each housing unit. The consistent use of the point scores provides documentation of each property's condition and serves as a guide to identify its condition as standard or sub-standard. Substandard units are further defined by the point system as those in need of moderate and substantial repairs, and those which may be beyond repair.

A. FOUNDATION

- 0 Housing unit has concrete block, concrete, stone or treated wood foundation with only minor cracks or spalling (flaking, chipping or splintering) evident. No severe sagging or other noticeable support defects.
- 2 Foundation has holes in a few places, major cracks or spalling evident. Severe sagging or other major support defects.
- 6 Housing unit has some sections of main living areas do not have foundation, no approved foundation, no foundation, major holes in foundation providing little protection from elements (rain, snow).

B. WALLS/PORCHES/STAIRS

- 0 Exterior walls, porches or stairs in good shape (effective protection from elements).
- 2 Some porches or stairs out of alignment, sagging, or buckling outward. Siding loose; paint chipping or worn away in major areas. Mortar decomposing in brick or stone structures. Stucco or plaster badly cracked.
- 6 Some exterior walls, porches or stairs badly aligned, sagging, or with holes. Siding missing, or building materials in advance stages of deterioration. Mortar missing, bricks or stones loose or missing. Stucco or plaster missing or badly spalling.

C. WINDOWS/DOORS

- 0 Exterior window and door features in good shape.

- _____ 2 Exterior windows and doors need minor caulking or repairs or storm windows. Existing storm windows in deteriorated condition. Window panes cracked; single glazing or plastic vinyl weatherizing.
- _____ 6 Exterior windows and doors broken, large cracks, holes, missing parts; need major repair.

D. ROOF

- _____ 0 Roof line straight with no sagging evident. Roofing materials in good shape.
- _____ 2 Roof line slightly sagging. Roofing materials loose, few missing shingles or portions loose or missing.
- _____ 6 Roof line sags extensively. Roofing materials missing, holes evident, flashing missing or rusted through.

E. CHIMNEY/VENTS

- _____ 0 Chimney/vents in good shape; chimney adequately projects above roof (3 ft. or more).
- _____ 2 Metal chimney/vents out of alignment, some rusting or evidence of deterioration. Evidence of loose bricks or deterioration of mortar in masonry chimney.
- _____ 6 Chimney/vents in need of major repairs or replacement; vents missing.

F. ELECTRICITY

Present State standards for electrical service require:

1. Proper weather protection at entry to the housing unit which includes a weather cap on top of a conduit mast.
2. Attached to the base of the conduit mast a large square meter base, with the meter mounted on it.
3. An 8 foot ground rod from the bottom of the meter base to the ground.

- _____ 0 Adequate service: Wires to unit appear to be of good quality and condition. Weather protection at entry, meter mounted to meter base. Proper grounding.
- _____ 2 Questionable service: Wires to unit appear to be worn. Deteriorated weather protection and/or meter base. Inadequate grounding.
- _____ 6 Inadequate service: No electricity to housing unit. Hazardous wires to unit. No weather protection or meter base. No grounding evident.

===== TOTAL POINTS

Guideline For Point Dedraction System

0 - 7 points STANDARD -- Housing Unit appears to be in acceptable condition.

8 - 15 points SUBSTANDARD -- Unit appears to need moderate repair.

16 - 23 points SUBSTANDARD -- Unit appears to need substantial repair.
(Rehabilitation may be appropriate if feasible under local rehabilitation guidelines.)

24+ points SUBSTANDARD -- Unit appears dilapidated (demolition may be appropriate).

Type of structure: Single family, detached _____

Duplex _____

Other (specify) _____

1. **Introduction**
 2. **Background**
 3. **Methodology**
 4. **Results**
 5. **Discussion**
 6. **Conclusion**
 7. **References**
 8. **Appendix**
 9. **Index**
 10. **Table of Contents**
 11. **Abstract**
 12. **Summary**
 13. **Key Words**
 14. **Keywords**
 15. **Subject Headings**
 16. **MeSH**
 17. **Indexing**
 18. **Classification**
 19. **Numbering**
 20. **Ordering**
 21. **Labeling**
 22. **Marking**
 23. **Signaling**
 24. **Notation**
 25. **Abbreviations**
 26. **Acronyms**
 27. **Initials**
 28. **Figures**
 29. **Tables**
 30. **Equations**
 31. **Formulas**
 32. **Diagrams**
 33. **Charts**
 34. **Graphs**
 35. **Plots**
 36. **Maps**
 37. **Photographs**
 38. **Illustrations**
 39. **Drawings**
 40. **Sketches**
 41. **Diagrams**
 42. **Charts**
 43. **Graphs**
 44. **Plots**
 45. **Maps**
 46. **Photographs**
 47. **Illustrations**
 48. **Drawings**
 49. **Sketches**
 50. **Diagrams**
 51. **Charts**
 52. **Graphs**
 53. **Plots**
 54. **Maps**
 55. **Photographs**
 56. **Illustrations**
 57. **Drawings**
 58. **Sketches**
 59. **Diagrams**
 60. **Charts**
 61. **Graphs**
 62. **Plots**
 63. **Maps**
 64. **Photographs**
 65. **Illustrations**
 66. **Drawings**
 67. **Sketches**
 68. **Diagrams**
 69. **Charts**
 70. **Graphs**
 71. **Plots**
 72. **Maps**
 73. **Photographs**
 74. **Illustrations**
 75. **Drawings**
 76. **Sketches**
 77. **Diagrams**
 78. **Charts**
 79. **Graphs**
 80. **Plots**
 81. **Maps**
 82. **Photographs**
 83. **Illustrations**
 84. **Drawings**
 85. **Sketches**
 86. **Diagrams**
 87. **Charts**
 88. **Graphs**
 89. **Plots**
 90. **Maps**
 91. **Photographs**
 92. **Illustrations**
 93. **Drawings**
 94. **Sketches**
 95. **Diagrams**
 96. **Charts**
 97. **Graphs**
 98. **Plots**
 99. **Maps**
 100. **Photographs**
 101. **Illustrations**
 102. **Drawings**
 103. **Sketches**
 104. **Diagrams**
 105. **Charts**
 106. **Graphs**
 107. **Plots**
 108. **Maps**
 109. **Photographs**
 110. **Illustrations**
 111. **Drawings**
 112. **Sketches**
 113. **Diagrams**
 114. **Charts**
 115. **Graphs**
 116. **Plots**
 117. **Maps**
 118. **Photographs**
 119. **Illustrations**
 120. **Drawings**
 121. **Sketches**
 122. **Diagrams**
 123. **Charts**
 124. **Graphs**
 125. **Plots**
 126. **Maps**
 127. **Photographs**
 128. **Illustrations**
 129. **Drawings**
 130. **Sketches**
 131. **Diagrams**
 132. **Charts**
 133. **Graphs**
 134. **Plots**
 135. **Maps**
 136. **Photographs**
 137. **Illustrations**
 138. **Drawings**
 139. **Sketches**
 140. **Diagrams**
 141. **Charts**
 142. **Graphs**
 143. **Plots**
 144. **Maps**
 145. **Photographs**
 146. **Illustrations**
 147. **Drawings**
 148. **Sketches**
 149. **Diagrams**
 150. **Charts**
 151. **Graphs**
 152. **Plots**
 153. **Maps**
 154. **Photographs**
 155. **Illustrations**
 156. **Drawings**
 157. **Sketches**
 158. **Diagrams**
 159. **Charts**
 160. **Graphs**
 161. **Plots**
 162. **Maps**
 163. **Photographs**
 164. **Illustrations**
 165. **Drawings**
 166. **Sketches**
 167. **Diagrams**
 168. **Charts**
 169. **Graphs**
 170. **Plots**
 171. **Maps**
 172. **Photographs**
 173. **Illustrations**
 174. **Drawings**
 175. **Sketches**
 176. **Diagrams**
 177. **Charts**
 178. **Graphs**
 179. **Plots**
 180. **Maps**
 181. **Photographs**
 182. **Illustrations**
 183. **Drawings**
 184. **Sketches**
 185. **Diagrams**
 186. **Charts**
 187. **Graphs**
 188. **Plots**
 189. **Maps**
 190. **Photographs**
 191. **Illustrations**
 192. **Drawings**
 193. **Sketches**
 194. **Diagrams**
 195. **Charts**
 196. **Graphs**
 197. **Plots**
 198. **Maps**
 199. **Photographs**
 200. **Illustrations**
 201. **Drawings**
 202. **Sketches**
 203. **Diagrams**
 204. **Charts**
 205. **Graphs**
 206. **Plots**
 207. **Maps**
 208. **Photographs**
 209. **Illustrations**
 210. **Drawings**
 211. **Sketches**
 212. **Diagrams**
 213. **Charts**
 214. **Graphs**
 215. **Plots**
 216. **Maps**
 217. **Photographs**
 218. **Illustrations**
 219. **Drawings**
 220. **Sketches**
 221. **Diagrams**
 222. **Charts**
 223. **Graphs**
 224. **Plots**
 225. **Maps**
 226. **Photographs**
 227. **Illustrations**
 228. **Drawings**
 229. **Sketches**
 230. **Diagrams**
 231. **Charts**
 232. **Graphs**
 233. **Plots**
 234. **Maps**
 235. **Photographs**
 236. **Illustrations**
 237. **Drawings**
 238. **Sketches**
 239. **Diagrams**
 240. **Charts**
 241. **Graphs**
 242. **Plots**
 243. **Maps**
 244. **Photographs**
 245. **Illustrations**
 246. **Drawings**
 247. **Sketches**
 248. **Diagrams**
 249. **Charts**
 250. **Graphs**
 251.

(Address of housing unit)

NOTE:

As an alternative to reprinting a number of survey forms, the person conducting the survey may record the points for each category and the total score, along with the type of structure and the address of the housing unit on a 3 x 5 inch index card. When paired with data from a local household income survey, the card could also be used to note whether the household would or would not be eligible for assistance.

STATE OF MONTANA/RECEIVED

APR 3 1985

**CENSUS AND ECONOMIC
INFORMATION CENTER**

600 copies of this public document were published at an estimated cost of \$3.80 per copy, for a total cost of \$2,280.00, which includes \$2,280.00 for printing and \$.00 for distribution.